रजिस्ट्री सं. डी. एल. (एन) 04/0007/2003–05 REGD. NO. D. L. (N) 04/0007/2003—05

भारत का राजपत्र
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WEEKLY

सं. 29] नई दिल्ली, जुलाई 10—जुलाई 16, 2016, शनिवार/ आषाढ़ 19—आषाढ़ 25, 1938

No. 29] NEW DELHI, JULY 10—JULY 16, 2016, SATURDAY/ASADHA 19— ASADHA 25, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India (Other than the Ministry of Defence)

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1402.—बीमांकक अधिनियम, 2006 (2006 का 35) की धारा 26 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, सुश्री मुदिता मिश्रा, निदेशक, वित्तीय सेवाएं विभाग को श्री एन. श्रीनिवास राव के स्थान पर तत्काल प्रभाव से एवं अगले आदेश होने तक, भारतीय बीमांकक संस्थान परिषद द्वारा गठित अनुशासनात्मक समिति में सदस्य नामित करती है ।

[फा. सं. 97(11)/2003-बीमा-III]

एस. के. मोहन्ती, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the, 8th July, 2016

S.O. 1402.— In exercise of the powers conferred by sub-section (1) of Section 26 of the Actuaries Act, 2006 (35 of 2006), the Central Government hereby nominates Ms. Mudita Mishra, Director, Department of Financial Services as member to the Disciplinary Committee constituted by the Council of the Institute of Actuaries of India vice Shri N. Srinivasa Rao with immediate effect and until further orders.

[F. No. 97(11)/2003-Ins.-III]

S. K. MOHANTY, Under Secy.

विदेश मंत्रालय

(सी.पी.वी. प्रभाग)

नई दिल्ली, 6 जुलाई, 2016

का.आ. 1403.—राजनयिक और कोंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्द्वारा, केंद्र सरकार भारत के दूतावास, वार्सा में श्री संदीप कुमार गौतम, सहायक अनुभाग अधिकारी को दिनांक 6 जुलाई, 2016 से सहायक कोंसुलर अधिकारी के तौर पर कोंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कोंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 6th July, 2016

S.O. 1403.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Sandeep Kumar Gautam, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Warsaw to perform the Consular services with effect from 6 July, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

मानव संसाधन विकास मंत्रालय

(उच्चतर शिक्षा विभाग)

(राजभाषा प्रभाग)

नई दिल्ली, 4 जुलाई, 2016

का.आ. 1404.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप-नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत निम्नलिखित कार्यालयों को, ऐसे कार्यालय के रूप में, जिसके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

1. केंद्रीय विद्यालय क्र. सं. - 2, रीवा,
   सिविल लाइंस, रीवा,
   मध्य प्रदेश - 486001
2. केंद्रीय विद्यालय उमरिया,
   सिविल लाइंस, उमरिया,
   मध्य प्रदेश - 484661
3. केंद्रीय विद्यालय क्र. सं. - 2, सतना,
   पॉलिटेक्निक भवन,
   सिविल लाइंस, सतना
   मध्य प्रदेश - 485001

[सं. 11011-3/2016-रा.भा.ए.]

सुखबीर सिंह संधु, संयुक्त सचिव

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Higher Education)

(O.L. UNIT)

New Delhi, the 4th July, 2016

S.O. 1404.—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the Ministry of Human Resource Development, (Department of School Education & Literacy) as office, whose more than 80% members of the staff have acquired working knowledge of Hindi :-

1. Kendriya Vidyalaya No. 2, Rewa,
   Civil Lines, Rewa
   Madhya Pradesh - 486001
2. Kendriya Vidyalaya, Umariya,
   Civil Lines, Umaria,
   Madhya Pradesh - 484661
3. Kendriya Vidyalaya No. 2, Satna,
   Polytechnic Bhawan, Civil Lines,
   Satna, Madhya Pradesh - 485001

[No. 11011-3/2016-O.L.U.]

SUKHBIR SINGH SANDHU, Jt. Secy.

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 23 जून, 2016

का.आ. 1405.—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार की दिनांक 24 जनवरी, 1948 की अधिसूचना सं. का.आ. 430 में एतद्द्वारा निम्न संशोधन करती है, अर्थात् :

2. उक्त अधिसूचना में "धारा 3 के खंड (घ) के तहत निर्वाचित" शीर्ष के अंतर्गत उसमें निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :

डॉ. विवेक शर्मा प्रोफेसर तथा विभागाध्यक्ष, प्रोस्थोडोंटिक्स विभाग, दर्शन डेंटल कॉलेज, उदयपुर, राजस्थान	निर्वाचित	राजस्थान आयुर्विज्ञान विश्वविद्यालय, जयपुर, राजस्थान	11.05.2016

[फा. सं. वी-12025/77/2016-डीई]

प्रदीप कुमार पाल, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

New Delhi, the 23rd June, 2016

S.O. 1405.—In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 430 dated 24th January, 1984, namely :

2. In the said notification under head "elected under clause (d) of Section 3", the following shall be inserted therein, namely :

Dr. Vivek Sharma, Professor and Head, Department of Prosthodonitics, Darshan Dental College, Udaipur, Rajasthan	Elected	Rajasthan University of Health Sciences, Jaipur, Rajasthan	11.05.2016

[F. No. V-12025/77/2016-DE]

PRADIP KUMAR PAL, Under Secy.

नई दिल्ली, 1 जुलाई, 2016

का.आ. 1406.—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार की दिनांक 24 जनवरी, 1948 की अधिसूचना सं. का.आ. 430 में एतद्द्वारा निम्न संशोधन करती है, अर्थात् :

2. उक्त अधिसूचना में "धारा 3 के खंड (घ) के तहत निर्वाचित" शीर्ष के अंतर्गत उसमें निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :

डॉ. योगेन्द्र कुमार पहाड़िया, प्रोफेसर, दंत चिकित्सा विभाग, जी.आर. मेडिकल, ग्वालियर	निर्वाचित	जिवाजी विश्वविद्यालय, ग्वालियर	15.02.2016

[फा. सं. वी-12025/46/2016-डीई]

प्रदीप कुमार पाल, अवर सचिव

New Delhi, the 1st July, 2016

S.O. 1406.—In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 430 dated 24th January, 1984, namely :

2. In the said notification under head "elected under clause (d) of Section 3", the following shall be inserted therein, namely :

Dr. Yogendra Kumar Paharia, Professor, Department of Dental Surgery, G.R. Medical College, Gwalior	Elected	Jiwaji University, Gwalior	15.02.2016

[F. No. V-12025/46/2016-DE]

PRADIP KUMAR PAL, Under Secy.

नई दिल्ली, 6 जुलाई, 2016

का.आ. 1407.—दंत चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय, भारत सरकार की दिनांक 24 जनवरी, 1948 की अधिसूचना सं. का.आ. 430 में एतद्द्वारा निम्न संशोधन करती है, अर्थात् :

2. उक्त अधिसूचना में "धारा 3 के खंड (घ) के तहत निर्वाचित" शीर्ष के अंतर्गत उसमें निम्नलिखित को अंतर्विष्ट किया जाएगा, अर्थात् :

प्रोफेसर, (डॉ.) रियाज फारुक प्रधानाचार्य/डीन, सरकारी दंत चिकित्सा महाविद्यालय तथा अस्पताल, शिरीन बाग, श्रीनगर, जम्मू एवं कश्मीर	निर्वाचित	कश्मीर विश्वविद्यालय	13.04.2015

[फा. सं. वी-12025/142/2015-डीई]

प्रदीप कुमार पाल, अवर सचिव

New Delhi, the 6th July, 2016

S.O. 1407.—In exercise of the powers conferred under Section 3 of the Dentists Act, 1948 (16 of 1948), the Central Government hereby the following amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 430 dated 24th January, 1984, namely :

2. In the said notification under head "elected under clause (d) of Section 3", the following shall be inserted therein, namely :

Prof. (Dr.) Riyaz Farooq, Principal/Dean, Government Dental College and Hospital, Shireen Bagh, Srinagar, Jammu and Kashmir	Elected	University of Kashmir	13.04.2015

[F. No. V-12025/142/2015-DE]

PRADIP KUMAR PAL, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 6 जुलाई, 2016

का.आ. 1408.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कम्पोजिट रीजनल सेंटर फॉर पर्सन्स विथ डिसेबिलिटी, भोपाल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस सं. सीजीआईटी/एलसी/आर/3/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.07.2016 को प्राप्त हुआ था।

[सं. एल-42012/156/2010-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 6th July, 2016

S.O. 1408.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/3/2011) of the Central Government Industrial Tribunal-Cum-Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Composite Regional Centre for Persons with Disability, Bhopal and their workman, which was received by the Central Government on 06.07.2016.

[No. L-42012/156/2010-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/3/2011

Shri Santosh Singh Thakur,
S/o Meharban Singh Thakur,
I/24, Satpura Staff Qtr.,
Near Divisional Electrical Office,
Satpura Bhawan Road,
Bhopal …Workman

Versus

Director,
Composite Regional Centre for Persons with Disability,
Punarvas Bhawan, Khajuri Marg,
Piplani, Bhopal …Management

AWARD

Passed on this 14th day of June 2016

1. As per letter dated 8-2-2010 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-42012/156/2010- IR(DU). The dispute under reference relates to:

"Whether Industrial Dispute Act is applicable to the Composite Regional Centre for persons with Disability, Bhopal on autonomous body under the administrative control of Chairperson, Executive Council of National Institute of Menytal Handicapped, Secunderabad? If so, whether workman Shri Santosh Singh Thakur was engaged for 240 days in a year? If so, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of Ist party workman is in the year 2000, 2nd party management issued advertisement for various posts. Workman had applied for post of attendant/ peon. He was selected on 23-7-00. Thereafter Nodal Officer had issued a certificate with regard to appointment of workman on 2-1-2001. He was paid consolidated honorarium. It was revised time to time. Workman was continuously working from 23-7-00 till February 2006. His performance in service was satisfactory. In February-06, his services were dispensed with without issuing notice, without assigning any reasons. Orally workman was asked not to come to office. His services were terminated without issuing notice under Section 25-F of ID Act, retrenchment compensation was not paid by the management. Workman tried to meet officer incharge in Regional Rehabilitation Centre for Handicapped at Bhopal. Workman was informed that in the year 2002, his services were transferred under M/S G.S.Gupta a cleaning contractor at Composite Regional Centre for persons with Disabilities, Bhopal on contractor basis. That the transfer of his service to contractor without consent is arbitrary. That the workman is not highly qualified, his not aware of the technalities of the matters. Workman was submitting representations to the management for his reinstatement. He filed original application 176/06 before CAT Jabalpur. Said application was dismissed for want of jurisdiction as the management found that the organization was not notified under Administrative Tribunal's Act 1985. Liberty was allowed to workman for redressal before appropriate forum. After the workman raised dispute under Section 10, the dispute referred in this Tribunal.

3. Workman reiterates that his services are terminated without notice or assigning any reason. Termination of his service amounts to unfair labour practice. Termination of his service is in violation of section 25-F of ID Act. He could not be expelled from service without following procedure prescribed by law. That workman was inducted in service on 23-7-00, he worked at composite Regional Centre, Bhopal till December 2000. He was paid consolidated honorarium which was revised to Rs.1500 per month from January 2001. In February 2006, he was paid wages from Centre Muster Roll. His attendance was regularly taken. Workman had attained status of regular employee. He continuously worked more than 240 days in each of the calendar year. Management cannot discharge itself from liability claiming that his services were transferred to M/S G.S.Gupta contractor. That other employees Shyam Singh, Mevalal, Mahipal and Ravikant who were employed through employment notice with him are still working. Management had inducted certain new persons as attendant are still working with the management. For violation of Section 25-F,H of ID Act, he prays reinstatement with backwages.

4. 2nd party failed to participate in reference proceeding on 11-4-2013, management was proceeded without Written Statement.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether Industrial Dispute Act is applicable to the Composite Regional Centre for persons with Disability, Bhopal on autonomous body under the administrative control of Chairperson, Executive Council of National Institute of Menytal Handicapped, Secunderabad?	In Affirmative

(ii) Whether Ist party workman Shri Santosh Singh Thakur was engaged for 240 days during 12 calendar months preceding his termination in February 2006?	In Affirmative
(ii) If so, to what relief the workman is entitled to?"	As per final order.

REASONS

6. The terms of reference pertains to whether the establishment of Regional Centre for persons with disability , Bhopal is covered by provisions of ID Act? In substance whether establishment of 2nd party is covered as industry under ID Act? 2nd party has not participated in reference proceeding. Workman has filed affidavit of his evidence supporting statement of claim. That he had submitted application for post of attendant helper as per advertisement published in the year 2000. Workman has produced document Exhibit W-1, advertisement issued by2nd party – Composite Regional Centre for persons with disability, Bhopal. From Exhibit W-1, it is apparent that the 2nd party Composite Regional Centre for persons with disability is certainly not carrying sovereign functions. Such centre is engaged for benefit of the handicapped persons.

> Under Section 2(j) of ID Act, industry is defined as:- " Industry means any business, trade, undertaking, manufacture of calling of employers and includes any calling service, employment, handicraft or industrial occupation or a vocation of workmen.

In my considered view, considering pleadings and affidavit of evidence of workman, 2nd party is covered as an industry under Section 2(j) of ID Act as establishment of 2nd party is not engaged in any kind of sovereign functions. For above reasons, I record my finding in Point No.1 in Affirmative.

7. Point No.2- workman has filed affidavit of his evidence and says that he was working with 2nd party from 23-7-00 till Feb-06. He was working without break. The documents Exhibit W-3shows workman was working with 2nd party from 19-8-00 on consolidated basis. As per Exhibit W-4, he was working with 2nd party from 23-7-00 to 5-3-01 on consolidated wages Rs.1500. As per Exhibit W-5, workman had submitted his resume. He was working till 12-1-01. Workman produced documents Exhibit W-7/2, 7/3, 7/4, 7/5, 7/6, payment vouchers since January 2001 till Sept.02. evidence of Ist party workman that he was continuously working from July 2000 till February 2006 remained unchallenged. Management of 2nd party has failed to participate in reference proceeding. Therefore I find no reason to disbelieve evidence of workman that he was continuously working from July 2000 to Feb-06. Workman had completed 240 days continuous service during each of the calendar year. His services are orally terminated, notice of termination was not issued to workman, retrenchment compensation was not paid to him. Other persons were appointed after termination of his services. From reasons discussed above, it is clear that termination of services of workman is in violation of provisions of Section 25-F of ID Act. For above reasons, I record my finding in Point No.1 in Negative.

8. Point No.3- In view of my finding in Point No.1, establishment of 2nd party is an industry under Section 2(j) of ID Act, in view of my finding in Point No.2- services of workman are terminated in violation of Section 25 H of ID Act, question remains for consideration whether workman is entitled for reinstatement with backwages. Evidence of workman that he was engaged after advertiseme4nt following recruitment process that he was transferred as employee of Shri G.S.Gupta, contractor without his consent. When he was engaged as attendant on establishment of 2nd party, his transfer to contractor Shri G.S.Gupta appears illegal. The transfer of service of workman without issuing notice under Section 9-A of ID Act appears illegal. Therefore the workman deserves reinstatement. In para-7 of his affidavit, workman says after removal from service, he could not get employment else where. Said evidence remained unchallenged. Therefore workman is also entitled to backwages. For above reasons, I hold that workman is entitled for reinstatement with backwages. Accordingly I record my finding in Point No.3.

9. In the result, award is passed as under:-

(1) The establishment f 2nd party is covered as Industry and provisions of ID Act are applicable to it.

(2) Workman had worked more than 240 days in each of the year. Termination of his service without notice is illegal.

(3) Management is directed to reinstate workman with continuity of service and backwages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 जुलाई, 2016

का.आ. 1409.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गन कैरिज फैक्ट्री, जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस सं. सीजीआईटी/एलसी/आर/6/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.07.2016 को प्राप्त हुआ था।

[सं. एल-14012/65/2000-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th July, 2016

S.O. 1409.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/6/2001) of the Central Government Industrial Tribunal-Cum-Labour-Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Gun Carriage Factory, Jabalpur and their workman, which was received by the Central Government on 06.07.2016.

[No. L-14012/65/2000-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/6/2001

Shri Rakesh Kumar Patel,
H.No.1976, Baldi Bori ki Dafai,
East Ghamapur,
Jabalpur …Workman

Versus

General Manager,
Gun Carriage Factory,
Jabalpur …Management

AWARD

Passed on this 22nd day of June 2016

1. As per letter dated 17-11-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14012/65/2000/IR(DU). The dispute under reference relates to:

> "Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of their workman Shri Rakesh Kumar Patel w.e.f. 11-10-95 is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/2. Case of workman is that his father Shri Churaman Patel was working as Driver in GCF Jabalpur. His father was medically boarder out due to chronic disease of TB and epilepsy. Ist party workman was appointed on compassionate ground on 15-10-92 on probation of 2 years. He worked satisfactorily. However due to sickness of his father, his father remained absent sometimes. He submitted leave application with medical certificate. His probation period was extended time to time for six months. He was regularly attending his duties. However without prior notice, his services were terminated as per order dated 11-10-95. Appeal preferred by him to the Board of Ordnance Factory was also rejected on 27-10-95.

3. Workman submits that he is terminated illegally without giving retrenchment compensation. His termination without notice is illegal. After retrenchment without paying compensation, he is facing hardship. He is required to look after his ailing father. On such ground workman prays to reinstate workman with backwages.

4. 2nd party filed Written Statement at Page 6/1 to 6/2 opposing claim of workman. 2nd party submits that termination of ist party workman is illegal. Workman is not entitled to any relief. Ist party workman was appointed on

compassionate ground from 15-10-91 on probation of 2 years. His attendance was not satisfactory during probation period. Probation of workman was extended for six months w.e.f. 15-10-92. Letter dated 12-10-93was issued to workman advising to improve his attendance. Despite it, there was no improvement in his attendance. Probation was extended thrice for six months each. There was no improvement in performance and attendance of workman despite 3 chances given to him and advisories issued. Finally his services were terminated on 11-10-95. Appeal preferred by workman was rejected on 23-9-95. Workman was terminated for poor performance during probation period. The termination of workman doesnot amount to retrenchment. Workman was given opportunity to improve his attendance but he failed. Workman had regularly absented from duties and did not show any improvement. Termination of workman is not illegal. 2nd party prays workman is not entitled to any relief.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Gun Carriage Factory, Jabalpur in terminating the services of their workman Shri Rakesh Kumar Patel w.e.f. 11-10-95 is legal and justified?	In Affirmative
(ii) If not, what relief the workman is entitled to?"	Workman is not entitled to any relief.

REASONS

6. Point No.1- The term of reference pertains to legality of termination of services of workman. In support of his claim, workman filed affidavit of his evidence supporting his contentions in statement of claim. That his father was working as Driver. Workman was appointed on compassionate ground as Darbar on 5-10-92. That he worked satisfactorily. For illness of his father, he was required to attend his father. His probation period was extended the advisory notes was issued to him for improvement etc. From evidence of Ist party, documents Exhibit W-5 to W-8 are admitted in evidence. In ohis cross-examination, workman says he received appointment letter Exhibit M-18. The employees of 2nd party received free medical treatment. The prescription pertaining to Exhibit W-6 was deposited in the department. Ist party workman was unable to tell the year of receiving documents under RTI Act. He admits that before the documents were received under RTI Act, Exhibit W-6 was produced in the case. Whenever he suffered from illness, he received treatment from GCF Hospital, he received documents of treatment under RTI Act. Workman admit that he was appointed on compassionate ground on 15-10-91 on probation of 2 years. His probation was extended twice for six months as his attendance was poor. He denies that he was remaining absent without submitting application supported by Medical Certificate. He admits that he had availed full CL, EL to his credit and remained absent beyond the period of CL, EL. He remained absent even beyond medical leave was granted to him.

7. Management's witness Shri C.Ngullie filed affidavit of his evidence narrating the details about extension of probation period of workman and leave particulars. The extension of probation period of workman was made 4 times and issuing notices to the workman. The documents are produced at Exhibit M-1 to M-10. In his cross-examination, management's witness says Ist party workman was working from October 91 to October 95. During said period he was not working in the establishment., the reasons for termination of workman were irregular attendance and unsatisfactory performance during probation period. The procedure for taking leave is submitting prior application for leave. The notices and documents Exhibit M-3, 6 & 10 its receipt from workman is not seen, probation period was extended 4 times. Everytime its information was sent to workman, M-6,10 are information sent to workman. On documents Exhibit M-6 & M-10, receipts of workman is not seen. The leave record of employee is maintained. Witness is unable to tell for how much period, leave record of workman was preserved.

8. Documents Exhibit M-18 is appointment letter, condition II is that workman was appointed on probation period of 2 years, his services could not be terminated without notice. Exhibit W-6 is copy of prescription. Exhibit W-7 shows that father of Ist party workman received treatment in hospital. Exhibit M-1 is copy of appointment order of workman, similar to Exhibit M-1`8, M-2 is copy of service book of workman shows different leaves availed by workman time to time. Exhibit M-4 is report submitted w.r.t. workman, LWP for 18 days, 31 days, 29 days were regularized. Exhibit M-5, 8 & 9 are report submitted by the Incharge. The leave period of workman is mentioned. Document M-6 shows the service details of workman. M-6 is report submitted by the Administration about the performance of workman during probation period was poor. The document M-9,10, reports submitted by concerned Officer about performance of workman. Similar documents are produced at Exhibit M-11,12,13. Leave availed by workman are also shown in other document. As per Exhibit M-14, name of workman are struck off from factory. Exhibit M-15 is the copy of appeal memo. M-16,17 are order passed by Appellate Authority rejecting his claim.

9. Document Exhibit W-1 shows erstwhile Ist party workman had filed Original Application 371/98. CAT Jabalpur passed order for considering the representation of workman within 2 months. Exhibit W-2 is copy of application submitted to ALC. W-3 is copy of rejection of appeal. W-4 is order passed under RTI that the copies of leave application requested by workman could not be supplied. The details of leave availed by workman are enclosed alongwith Exhibit M-4. Workman availed total 274 leave of different kinds. Out of it, workman was on LWP for 68 days. When workman was appointed on probation period, his probation was extended 4 times for poor performance. As per conditions in appointment order, the services of workman were liable to be terminated without notice during probation period. The documents produced in the case shows that workman availed different kind of 274 leaves including 68 LWP. The termination of workman cannot be said illegal. For above reasons, I record my finding on Point No.1 in Affirmative.

10. In the result, award is passed as under:-

(1) The action of the management is legal and proper.

(2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 जुलाई, 2016

का.आ. 1410.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार गुरु घासीदास सेंट्रल यूनिवर्सिटी, कोणी के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस सं. सीजीआईटी/एलसी/आर/26/14) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.07.2016 को प्राप्त हुआ था।

[सं. एल-42012/158/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th July, 2016

S.O. 1410.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/26/14) of the Central Government Industrial Tribunal-cum-Labour-Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Guru Ghasidas Central University, Koni and their workman, which was received by the Central Government on 06.07.2016.

[No. L-42012/158/2013-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/26/14

Shri Nagendra Sharma,
S/o Shri D.P.Sharma,
R/o New Sarkanda,
Bangalipara, Gali No.6,
Bilaspur (CG) … Workman

Versus

Registrar,
Guru Ghasidas Central University, Koni,
Bilaspur CG …Management

AWARD

Passed on this 8th day of June 2016

1. As per letter dated 24-2-14 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-42012/158/2013-IR(DU). The dispute under reference relates to:

"Whether the action of the management of Guru Ghasidas Central University, Bilaspur through its Registrar & Dy.Registrar (Admn.) in terminating/ discontinuing the services of Shri Nagendra Sharma, Ex.Daily Wage Clerk w.e.f. 11-6-12 was legal, proper and justified? If not, to what relief the said workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim. Case of Ist party is that Ist party Nagendra Sharma was appointed on 21-8-98 as daily wage clerk against vacant post in establishment of 2nd party. His service record was unblemished. Ist party was continuously working till 11-6-12. His services were terminated on 11-6-12. Workman had completed 240 days continuous service preceding 12 months of his termination. Explanation of workman was called w.r.t. news in daily news paper "Dainik Bhaskar" dated 9-6-12. That Ist party corrected papers receiving the amount. Workman had denied allegations against him as false. Without giving any opportunity for his defence, management terminated his service, no enquiry was conducted against workman w.r.t. alleged charges. If enquiry could have been done, workman would have been exonerated. That workman completed more than 14 years service with the management of 2nd party. His services are terminated without holding enquiry. Principles of natural justice are not followed. Workman was not paid retrenchment compensation. Termination of his service is in violation of Section 25-F of ID Act. Rule 76, 76-A of Industrial Rules are not followed. Workman is not paid retrenchment compensation. On such ground, workman prays for setting aside order of his termination and prays for reinstatement with back wages.

3. After notice, 2nd party appeared through Advocate. On application of 2nd party, case was adjourned for filing Written Statement on 22-8-12, 11-12-12. Management did not filed Written Statement. On 23-8-2015, 2nd party was proceeded without Written Statement.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Guru Ghasidas Central University, Bilaspur through its Registrar & Dy.Registrar (Admn.) in terminating/ discontinuing the services of Shri Nagendra Sharma, Ex.Daily Wage Clerk w.e.f. 11-6-12 was legal, proper and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

REASONS

5. The term of reference pertains to legality of termination/ discontinuing services of workman. 2nd party is proceeded without Written Statement. Workman filed affidavit under Order 18 on most of his contentions in statement of claim that he was appointed on 21-8-98 by 2nd party. He was continuously working till 1-10-12. He completed more than 240 days continuous service. That his services were terminated as per order dated 11-6-12 on the ground that his services are no more required. That his explanation was called on 9-6-12. That he was collecting papers except money. No enquiry was held against him. From evidence, Exhibit W-1 to W-6 are admitted in evidence. Evidence of workman remained unchallenged. For unknown reasons which appears suspicious, 2nd party has not filed Written Statement, not participated in the reference proceeding. Management of 2nd party may take its notice as to what were the reasons Written Statement were not filed and whether it was a motive to support claim of Ist party workman unreasonably. However as 2nd party has not participated in reference, I find no reason to disbelieve evidence of workman. As services of workman are terminated without notice, retrenchment compensation not paid, any enquiry is not conducted, termination of workman is illegal. For above reasons, I record my finding in Point No.1 in Negative.

6. Point No.2- In view of my finding in Point No.1, termination of services of workman is illegal. Counsel for Ist party submitted written notes of argument instead of arguing before undersigned. Learned counsel has relied on ratio held in

> Case of Gauri Shanker versus State of Rajasthan reported in 2015 STPL(Web)321 SC. Their Lordship dealing with Section 25-F, H of ID Act held that the Single Judge and the Division Bench under their supervisory jurisdiction should not have modified the award by awarding compensation in lieu of reinstatement which is contrary to the well settled principles of law laid down in the catena of cases by Apex Court. The award of Labour Court is restored. So far as order of reinstatement, respondent department further directed to reinstate workman in its post and pay 25 % backwages.

Learned counsel has also relied on ratio held in Mackinon Mackenzie & Company versus Mackinon Employees Union reported in 2015-STPL(web) 142 SC. Their Lordship dealing with Section 25-F clause (b) of ID Act held since no evidence has been produced by respondent Union to prove further no calculation has brought as to amount received by way of retrenchment compensation and also the actual amount sought to have been paid to the retrenched workman. Further with regard to provision of Section 25-F clause(b), Appellant Company has not been able to produce cogent evidence. Retrenchment was held void-ab-initio. Moulding of relief was not upheld.

7. Considering reasons discussed above, termination of workman is illegal for violation of Section 25-F of ID Act. The reinstatement of workman with 50 % backwages would be appropriate. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under:-

(1) The action of the management is not proper and legal.

(2) 2nd party is directed to reinstate workman on same status he was working with 50 % back wages.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 6 जुलाई, 2016

का.आ. 1411.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व्हीकल फैक्ट्री, जबलपुर के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ केस सं. सीजीआईटी/एलसी/आर/19/09) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06.07.2016 को प्राप्त हुआ था।

[सं. एल-14011/15/2008-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 6th July, 2016

S.O. 1411.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. CGIT/LC/R/19/09) of the Central Government Industrial Tribunal-cum-Labour-Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Vehicle Factory, Jabalpur and their workmen, which was received by the Central Government on 06.07.2016.

[No. L-14011/15/2008-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/19/09

General Secretary,
Ayudh Nirmani Vahan Chaalak Sangh,
MP Zone,
Qr.No.2287/A, New Type-II, Sector-I,
VFJ, Jabalpur …Workman

Versus

Sr.General Manager,
Vehicle Factory,
Jabalpur …Management

AWARD

Passed on this 16th day of June 2016

1. As per letter dated 3-3-09 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-14011/15/2008-IR(DU). The dispute under reference relates to:

"Whether the demand of the Ayudh Nirmani Vahan Chaalak Sangh, MP Zone for half an hour lunch from the management of Vehicle Factory for their workman Shri P.S.Biswas, Leading Hand Fire, Fire Brigade Section since 1973 is legal and justified? If yes, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party failed to appear in the reference proceeding despite repeated notices. On 10-2-16, information was received that Ist party workman died, his LRs have not brought on record.

3. 2nd party has filed written Statement. The contentions of 2nd party are that claim of workman pertains that management should pay additional wages for additional 30 days beyond normal 8 hours duty. When he was compelled to work 8 ½ hours instead of 8 hours duty and pay arrears along with interest @ 18 % w.e.f. the date of arrears fell due till realization. Claim of workman was opposed by management on the ground that claim is vague, claim has become stale as same is very old. There is no justification for raising such a dispute at belated stage. The claim of workman deserves to be rejected. Ist party workman is essential category of staff. The factory under management has been registered with the Factory Inspector under Factory Act, 1948 and MP Factories rules framed thereunder. The duty hours of workman along with other workman in the factory are 8 hours daily. Timing of each workman is depending on the nature of work detained. After 5 hours duty, workman is given 30 minutes break which is usually given for lunch, dinner or for taking rest in the night shift. Workman is an essential category staff, his duty hour was rotated in shift. It is reiterated that 30 minutes interval is given after 5 hours continuous work, the same is utilised for lunch, rest etc. workman is not entitled for extra wages for the interval period.

4. Under section 54 of Factories Act, adult worker be required to be allowed to work in factory for not more than 9 hours. As per section 55 of Factories Act, duty of adult workers are required or allowed to work in a factory for more than nine hours in any day subject to maximum 48 hours in any week. As per Section 55 of Factories Act, duty of adult worker in a factory in each day shall be so fixed that no period shall exceed 5 hours and that no worker shall work for more than 5 hours before he has had an interval for rest of atleast half an hour. In view of above statutory provisions and the practice being followed in the factory, workman was not compelled to perform duty beyond 8 hours in a day and in all 48 hours in a week. Workman has been paid extra wages as per factory Act.

5. 2nd party has filed affidavit of evidence of Shri Rajendra singh supporting contentions in Written Statement.

6. Ist party workamn failed to participate in reference proceeding, workman died during pendency of reference, his LRs are not brought on record. Therefore No Dispute Award is passed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1412.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार राजस्थान इलेक्ट्रॉनिक्स एंड इंस्ट्रूमेंट्स लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकार के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ केस सं. 2/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 05.07.2016 को प्राप्त हुआ था।

[सं. एल-42011/110/2014-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 8th July, 2016

S.O. 1412.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. Case No. 2/2015) of the Central Government Industrial Tribunal-Cum-Labour-Court, Jaipur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Rajasthan Electronics abd Instruments Limited and their workmen, which was received by the Central Government on 05.07.2016.

[No. L-42011/110/2014-IR (DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JAIPUR

BHARAT PANDEY, Presiding Officer

I.D. 2/2015

Reference No.L-42011/110/2014-IR(DU) dated: 18/19.12.2014

The State Secretary
Bhartiya Mazdoor Sangh
Regional Office -42A, Patel Colony,
Sardar Patel Marg, C-skim,
Jaipur -302012.

V/s

The Managing Director
Rajasthan Electronics and
Instruments Limited, 2, Kanakpura
Industrial Area, Sirsi Road,
Jaipur -302012

Present :

For the applicant : Self

For the non-applicant : Sh. Neeraj Saxena, Additional General Manager, (P & IR).

AWARD

31.5.2016

1. The Central Government in exercise of the powers conferred under clause (d) of Sub Section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

"क्या प्रबंधन राजस्थान इलेक्ट्रोनिक एण्ड इन्स्ट्रूमेंट लि. (रील), जयपुर के द्वारा भारतीय मजदूर संघ समर्थित यूनियन को संस्थान परिसर में नई कार्यसमिति राजस्थान इलेक्ट्रोनिक एण्ड इन्स्ट्रूमेंट लि. कर्मचारी संघ के नाम से गठित नहीं करने देना एवं पूर्व कर्मकार रामाअवतार जांगिड को उक्त कार्यसमिति का अधयक्ष न मानना न्यायोचित एवं न्यायसंगत है? यदि नही तो यूनियन किस अनुतोष को पाने की अधिकारी है?"

2. Pursuant to the receipt of the reference order, registered notices were issued to both the parties after registration of the case fixing 22.6.2015 for filing statement of claim. On 22.6.2015 Sh. Rajbihari Sharma, Secretary of the Union was present on behalf of applicant & Sh. Neeraj Saxena, Additional General Manager, (P & IR) was present on behalf of opposite party. Oral request was made by applicant which was granted & 3.8.2015 was next date fixed for filing statement of claim. On 3.8.2015 presiding officer was on leave. Sh. Ramavatar Jangid, President of the Union was present on behalf of applicant who requested further time to file statement of claim. None appeared on behalf of opposite party. Next date 14.9.2015 was fixed for filing statement of claim. On 14.9.2015 both the parties were present. Adjournment application was moved from applicant side with request that this case has to be withdrawn by Central Government & action is in progress for the same. In the application it has been alleged that the Central Government had made reference in this case considering dispute between the parties whereas the case is for proceeding with a complaint before the competent court against the opposite party for unfair labour practice. It has been further alleged that a representation dated 11.2.2015 has been submitted to Central Government, Labour Department which has been sent for necessary action before Regional Labour Commissioner (Central), Jaipur which is pending for disposal. The above adjournment application was allowed fixing 9.11.2015 for filing statement of claim or application for withdrawal of reference.

3. On 9.11.2015 both the parties were absent. Neither any one appeared from both the side nor statement of claim was filed till the closure for the day. In the interest of justice case was adjourned providing last opportunity to the applicant for filing statement of claim on 20.11.2015. On 20.11.2015 none appeared from applicant side. Sh. Neeraj Saxena, Additional General Manager, (P & IR) & Sh. Subhash Agrawal, AGM (Fin.) were present on behalf of opposite party. Neither statement of claim nor application for withdrawal of reference was filed. Once again adjourning the case last opportunity was given to the applicant fixing 30.12.2015 for filing statement of claim. On 30.12.2015 neither anyone appeared on behalf of applicant nor statement of claim was filed. Sh. Neeraj Saxena, Additional General Manager, (P & IR) & Rakesh Chopra, GM (Ele.) were present on behalf of opposite party. It was strongly opposed by opposite party that applicant is neither filing statement of claim nor application for withdrawal of reference. The case was again adjourned by the tribunal in the interest of justice providing last opportunity to file statement of claim or application for withdrawal of reference on 28.1.2016.

4. Prior to 28.1.2016 an application was submitted by opposite party on 22.1.2016 to adjourn the case on 28.1.2016 owing to their inability to appear on 28.1.2016. On 28.1.2016 none appeared on behalf of applicant & statement of claim was not filed. None appeared on behalf of opposite party in view of application dated 22.1.2016. It

was observed that despite providing opportunities applicant neither appears nor files statement of claim. It was also observed that applicant has been provided last opportunities also. However once again last opportunity was provided to the applicant fixing 15.2.2016 for filing statement of claim. On 15.2.2016 both the parties were absent & presiding officer was on leave. 14.3.2016 was next date fixed for filing statement of claim. On 14.3.2016 none appeared on behalf of applicant. Sh. Neeraj Saxena, Additional General Manager, (P & IR) & Sh. Rakesh Chopra, GM (Electronics) were present on behalf of opposite party. statement of claim was not filed. Once more last opportunity was given fixing 18.4.2016 for filing statement of claim by applicant. It was further ordered that reminder be sent to the applicant to appear & file statement of claim.

5. On 18.4.2016 both parties were absent and presiding officer was on leave. 26.4.2016 next date was fixed for filing statement of claim. On 26.4.2016 both the parties were absent. Concerned official of CGIT, Jaipur was directed to send the reminder to applicant for filing statement of claim by next date 26.5.2016 providing once more last opportunity to applicant for filing statement of claim. After order on 26.4.2016 representatives of opposite party came in appearance who were made aware of the order passed on 26.4.2016. On 26.5.2016 applicant neither appeared after service of letter of reminder nor filed statement of claim. Sh. Neeraj Saxena, Additional General Manager, (P & IR) & Sh. Ajay Bhargava, G.M. (C.P.& H.R.) were present for opposite party. In above fact & circumstance there appeared no further need to adjourn the case & provide further opportunity to applicant for filing statement of claim. Accordingly opportunity was closed & case was reserved for award.

6. It is pertinent to note that on 17.4.2014 reference order was sent by Ministry to applicant with direction to file statement of claim within 15 days from the date of receipt of reference. Applicant has neither filed statement of claim on the direction of Ministry nor on notice & knowledge of the proceeding pending before the tribunal. It appears that applicant is not interested & willing in submitting the claim for adjudication. In the circumstances & in the absence of material evidence brought on record, tribunal is unable to record the finding on the issues referred to it on merit. Accordingly, "No Claim Award" is passed in this matter. The reference under adjudication is answered accordingly.

7. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1413.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 71/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41012/145/2004-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1413.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41012/145/2004-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 28th April, 2016

Reference: (CGITA) No. 71/2005

1. The General Manager,
Western Railway,
Churchgate,
Mumbai – 400008

2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda – 390004.

3. The Divisional Railway Manager,
Western Railway,
Divisional Office,
Ahmedabad (Gujarat) … First Party

v/s

Shri Anil Kumar Pal,
664/12, R.H. Railway Colony,
Maninagar,
Ahmedabad (Gujarat) … Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/145/2004-IR(B-I) dated 24.08.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Western Railway in fixing the seniority of Shri Anil Kumar H. Pal below his original seniority, is proportionate to the mistake committed by the applicant or not? If not, what relief he is entitled to?"

1. The reference dates back to 24.08.2005. The first party submitted the vakalatpatra Ext. 8 of his advocate on 25.01.2006 and second party also filed his vakalatpatra of his advocate on 20.08.2009 but the second party has not preferred to submit his statement of claim, consequentially, first party has also not filed the written statement. The conduct of the second party indicates that he has no willingness to prosecute the reference. Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1414.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 67/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41011/40/2004-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1414.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41011/40/2004-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 27th April, 2016

Reference: (CGITA) No. 67/2005

1. The General Manager,
Western Railway,
Churchgate,
Mumbai – 400008

2. The Divisional Railway Manager,
Western Railway, Pratapnagar,
Baroda – 390004 …First Party

v/s

The General Secretary,
Paschim Railway Karmachari Parishad,
E-209, Sarvottam Nagar,
Sabarmati,
Ahmedabad (Gujarat) … Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/40/2004-IR (B-I) dated 10.08.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Western Railway by placing Shri Jagdish Y., Pointsmen, Sabarmati (M.G.) below to his juniors in the seniority list is justified and legal? If not, what relief the workman is entitled to and to what extent?"

1. The reference dates back to 10.08.2005. Both the parties were served to registered post and first party submitted the Vakalatpatra Ext. 4 of his advocate on11.01.2010 and Ext. 13 on 25.01.2006 and could not filed the written statement in the absence of statement of claim. Second party, The General Secretary, Paschim Railway KarmachariParishad was issued notice twice. Both were received unserved on account of refusal. It is also noteworthy that the second party despite having knowledge of the reference by way of service of the copy of the reference directly send to him by M/o Labour and Employment, has been absent continuously. Thus it appears that second party has no intent to prosecute the case.Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1415.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ सौराष्ट्र के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 03/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/213/2004-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1415.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of Saurashtra and their workmen, received by the Central Government on 10.05.2016.

[No. L-12012/213/2004-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 26th April, 2016

Reference: (CGITA) No. 03/2005

The Assistant General Manager,
State Bank of Saurashtra,
Head Office,
Neelam Baug,
Bhavnagar (Gujarat) … First Party

V/s

Mr. Manishkumar S. Solanki, (Vanand),
Sardar Patel Society,
Ravapar Road, Near Geeta Mozaia,
Morvi(Gujarat) – 363641 …Second Party

For the First Party : Shri B.B. Gogia

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/213/2004-IR(B-I) dated 04.01.2005 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the claim of Shri Manish Kumar S. Solanki, that he was engaged as a peon by the management of State Bank of Saurashtra during the period form 02.08.1997 to 23.06.2000 on continuous basis is correct? If so, whether the action of the management in terminating him with effect from 23.06.2000 is legal and justified and what relief the concerned workman is entitled to?"

1. The reference dates back to 04.01.2005. Second party submitted the statement of claim Ext. 3 on 27.05.2004 and first party submitted the written statement Ext. 7 on 14.07.2011. Since then second party has been either absent on most of the dates or present formally on one or two dates but did not prefer to lead evidence. The case is too old and in such circumstances, the litigation cannot be taken as luxury. Thus in the said circumstances, when the workman/second party is not serious in the prosecution of the case. The tribunal has no option but to treat the case as dead.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1416.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 147/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41011/72/2012-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1416.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 147/2012) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41011/72/2012-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 27th April, 2016

Reference: (CGITA) No. 147/2012

The Divisional Railway Manager,
Western Railway, Near Chamunda Bridge,
Ahmedabad (Gujarat) … First Party

v/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
100/B, Railway Colony, Vatva,
Ahmedabad(Gujarat) … Second Party

For the First Party : Shri Navin S. Vaghela

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/72/2012-IR(B-I) dated 24.09.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Western Railway, Ahmedabad in not considering ShriMukesh V. Rathod as a ST candidate and not giving him promotion against ST quota is legal and justified? To what relief the workman is entitled?"

1. The reference dates back to 24.09.2012. Both the parties were served to registered post and first party also filed the vakalatpatra Ext. 5 of his advocate ShriNavin S. Vaghela. Since then the second party has been absent and has also not submitted the statement of claim. On 18.12.2015, second party was given the last opportunity but to no result. Thus it appears that second party has no intent to prosecute the case.Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1417.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 169/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41011/77/2013-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1417.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 169/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41011/77/2013-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 26th April, 2016

Reference: (CGITA) No. 169/2013

The Divisional Railway Manager,
Mumbai Division,
Western Railway, Mumbai Central,
Mumbai – 8 …First Party

v/s

The Dy.General Secretary,
Paschim Railway Karmachari Parishad,
33, Moti Bhavan, 2nd floor, Dr. D'silva Road,
Dadar (W),
Mumbai – 28 …Second Party

For the First Party : None
For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/77/2013-IR (B-I) dated 23.09.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of management of Western Railway,Divisional Railway Manager, Mumbai in not giving family pension to Ms. Neelam, daughter of Late Shri Rajaram Pal Ex-Gangman is legal, just and proper? To what relief M.S. Meelam is entitled?"

1. The reference dates back to 23.09.2013.The second party, Divisional Secretary, Paschim Railway Karmachari Parishasd, Baroda received the notice in person on 02.06.2014 since then the aforesaid party did not submit the statement of claim and also absent. Therefore it appears that the second party has no interest in the prosecution of the case.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1418.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 104/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/39/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1418.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 104/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 10.05.2016.

[No. L-12012/39/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 21st April, 2016

Reference: (CGITA) No. 104/2004

The Manager,
State Bank of India,
Main Branch,
Bhadra,
Ahmedabad – 380001 …First Party

Vs.

Shri Devendrabhai Shivrumbhai Chauhan,
A/3 Siddhi Society,
B/h Veejnath Mahadeve Temple,
Vejalpur,
Ahmedabad – 380001 …Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/39/98-IR(B-I) dated 28.08.1998 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of themanagement of State Bank of India in terminating the services of Shri Devendrabhai Shivrumbhai Chauhan, w.e.f. 23.11.96 and not considering for regular employment is justified? If not what relief the concerned workmen is entitled to?"

1. The reference dates back to 28.08.1998. The second parties submitted the statement of claim on 09.10.1998. And first party filed the written statement on 04.02.1999. Since then the second party has not come forward to lead his evidence.

2. Thus it appears that the second party is not willing to proceed with the reference. The learned advocate of the second party has also expressed unwillingness to proceed with the reference. Thus the tribunal has no option but to dismiss the reference in default of the second party.

3. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1419.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 172/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41011/55/2013-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1419.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 172/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41011/55/2013-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 27th April, 2016

Reference: (CGITA) No. 172/2013

1. The General Manager,
Western Railway,
Churchgate,
Mumbai – 400020

2. The Divisional Railway Manager,
Western Railway, Divisional Office,
Bhavnagar Division,
Bhavnagar Para …First Party

v/s

The President,
Paschim Railway Karmachari Parishad,
B/28, Narayan Park,
Behind Chandkheda Railway Station,
Sabarmati,
Ahmedabad(Gujarat) … Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/55/2013-IR(B-I) dated 30.09.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management in relation to Bhavnagar Division of Western Railway in showing the name of Shri Barmeshwar Nath, T.C. at Sr. No. 19 in the seniority list circulated vide letter No. EC/1030/03/06 Vol. VII dated 15.09.2010 of DRM, Bhavnagar and, in not including his name in the panel of candidates suitable for promotion circulated vide letter No. EC/1026/23 Vol. II dated 02.11.2010 of the DRM, Bhavnagar is valid and justified? If not, what relief is the concerned workman entitled to?"

1. The reference dates back to 30.09.2013. The second party, The President, Paschim Railway KarmachariParishad received the notice in person on 03.06.2014, since then second party has not submitted the statement of claim. Thus it appears that second party has no intent to prosecute the case.

2. Thus, the tribunal has no option but to dismiss the case in default of the second party.

3. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1420.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 161/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41011/20/2013-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1420.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 161/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41011/20/2013-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 26th April, 2016

Reference: (CGITA) No. 161/2013

1. The Sr. Divisional Mechanical Engineer,
Western Railway,
Pratapnagar,
Baroda

2. The Divisional Railway Manager (Estt.),
Western Railway,
Pratapnagar,
Baroda …First Party

v/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole,
Kothi,
Baroda(Gujarat) … Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/20/2013-IR(B-I) dated 20.09.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Union, Paschim Railway Karmachari Parishad, Baroda to give appointment in Railway service to Shri Mahesh Kumar S., S/o Shri Shantilal Mathur, Ex. Gangman, who opted VRS w.e.f. 07.04.2011 as per Railway Board's instruction is legal, proper and just? If so, to what direction is necessary in this matter?"

1. The reference dates back to 20.09.2013. The second party, Divisional Secretary, Paschim Railway Karmachari Parishasd, Baroda received the notice in person on 02.06.2014 since then the aforesaid party did not submit the statement of claim and also absent. Therefore it appears that the second party has no interest in the prosecution of the case.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1421.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 845/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41012/259/2003-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1421.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 845/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41012/259/2003-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 26th April, 2016

Reference: (CGITA) No. 845/2004

1. The Divisional Electrical Engineer(Power),
Western Railway,
Pratapnagar,
Baroda - 390004

2. The Divisional Railway Manager,
Western Railway,
Pratapnagar,
Baroda – 390004

3. The General Manager,
Western Railway,
Churchgate,
Mumbai

4. The Assistant Electrical Engineer,
Western Railway,
Pratapnagar,
Baroda – 390004 …First Party

v/s

The Hon. Secretary,
General Workmen's Union, Sindurimata Devasthan,
ST Nagar Road,
Godhra(Gujarat) – 389001 …Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri J.K. Ved

AWARD

The Government of India/Ministry of Labour ,New Delhi by reference adjudication Order No. L-41012/259/2003-IR(B-I) dated 22.03.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Assistant Electrical Engineer (P), Western Railway, Baroda in removal from service of Shri Budhabhai V. Patel w.e.f. 30.10.2002 is legal, proper and justified? If not to what relief the concerned workman is entitled to and from which date?"

1. The reference dates back to 22.03.2004. All the parties were served. Second party submitted the statement of claim Ext. 4 on 12.06.2006. First party filed the vakalatpatra Ext. 7 of his advocate on 13.06.2006 but he did not filed the written statement. On 17.12.2015, the case was fixed for exparty hearing on account of non-filing of written statement by first party but today on 26.04.2016, second party did not respond to lead evidence. It is also noteworthy that both the parties have been absent since last several dates. Therefore it appears that the second party has no interest in the prosecution of the case.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1422.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 144/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/177/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1422.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 144/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 10.05.2016.

[No. L-12012/177/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 21st April, 2016

Reference: (CGITA) No. 144/2004

The Manager,
State Bank of India,
Main Branch,
Bhadra,
Ahmedabad – 380001 …First Party

Vs.

Shri Dinesh Somabhai Parmar,
158 Rami's Chawl,
Rakhial Road,
Ahmedabad – 380021 …Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/177/98-IR(B-I) dated 13.01.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of State Bank of India in terminating the services of Shri Dinesh Somabhai Parmar w.e.f. 07.05.1995 and not considering him for regular employment is justified? If not, what relief the concerned workmen is entitled to?"

1. The reference dates back to 13.01.1999. The second party submitted the statement of claim Exhibit - 4 on 06.10.1999. The first party filed the vakalatnama Exhibit – 5 of his advocate on 15.12.1999 and written statement

exhibit – 7 on 08.02.2000. Since then second party has been avoiding to lead evidence. The learned advocate of the second party today on 21.04.2016 expressed unwillingness to proceed with the reference.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1423.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बंबई मर्कैंटाइल सहकारी बैंक लिमिटेड के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 67/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-12012/75/94-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1423.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of The Bombay Mercantile Co-operative Bank Ltd. and their workmen, received by the Central Government on 10.05.2016.

[No. L-12012/75/94-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 21st April, 2016

Reference: (CGITA) No. 67/2007

The General Manager,
The Bombay Mercantile Co-operative Bank Ltd.,
Rustum Kama Marg,
Khanpur,
Ahmedabad …First Party

Vs.

Shri Nayan S. Shah,
21, New Kundan Nagar Society,
Rajendra Park,
Highway Road,
Ahmedabad – 382415 …Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-12012/75/94-IR(B-I) dated 19.07.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Bombay Mercantile Co-op. Bank Ltd., Ahmedabad in dismissing the services of Shri Nayan S. Shah w.e.f. 12-11-1991 is legal, justified & proper? If not, to what relief, the workmen is entitled?"

1. The reference dates back to 19.07.1995. The second party submitted the statement of claim Ext. 4 on 15.09.1995. First party filed the vakalatnama Ext. 5 on 15.09.1995 and written statement Ext. 7 on 27.11.1995.

2. Today on 21.04.2016, Advocate for second party has moved an application ext. 67 for withdrawal of the reference on the ground that the dispute has been settled between the parties before the Reconciliation Officer on 13.07.2015 agreeing to pay Rs.50, 000 to the second party as a full and final settlement. Thus the application was allowed.

3. Thus the reference is dismissed as withdrawn by the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 8 जुलाई, 2016

का.आ. 1424.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 162/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.05.2016 को प्राप्त हुआ था।

[सं. एल-41011/21/2013-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 8th July, 2016

S.O. 1424.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 162/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.05.2016.

[No. L-41011/21/2013-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 26th April, 2016

Reference: (CGITA) No. 162/2013

1. The Divisional Railway Manager (Estt.),
Western Railway,
Pratapnagar,
Baroda

2. The Sr. Divisional Engineer,
Western Railway,
Pratapnagar,
Baroda

3. The Sr. Section Engineer(P. Way),
Western Railway,
Platform No. 6,
Vadodara (Gujarat) … First Party

v/s

The Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole,
Kothi,
Baroda (Gujarat) … Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/21/2013-IR(B-I) dated 20.09.2013 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Union, Paschim Railway Karmachari Parishad, Baroda to give increment to Shri Mahiji Madilal, Gangman w.e.f. 27.07.1988 till his retirement and also give the benefit of ACP or MACP and to pay the arrear payment along with 16% interest is legal, proper and just? If so, to what relief the concerned workman Shri Mahiji Madilal, Ex-Gangman is entitled to?"

1. The reference dates back to 20.09.2013.The second party, Divisional Secretary, Paschim Railway Karmachari Parishasd, Baroda received the notice in person on 02.06.2014 since then the aforesaid party did not submit the statement of claim and also absent. Therefore it appears that the second party has no interest in the prosecution of the case.

2. Thus the reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1425.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ बड़ौदा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, दिल्ली के पंचाट (संदर्भ सं. 82/2001) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/148/2001-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1425.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2001**)** of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Delhi as shown in the Annexure in the Industrial Dispute between the management of Bank of Baroda and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/148/2001-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, DELHI

Present : Shri Harbansh Kumar Saxena

ID. No. 82/2001

The General Secretary,
Bank of Baroda Employee's Union,
4824/24, Ansari Road.
Darya Ganj, Ansari Road …Workman

Versus

The General Manager, BOB, Zonal Officer, 16,
Parliament Street,
New Delhi -110001 …Management

AWARD

The Central Government in the Ministry of Labour vide Letter No.L-12011/148/2001(IR(B-II)) dated 16.05.2002 referred the following Industrial Dispute to this Tribunal for adjudication :-

"Whether the action of the Deputy General Manager, Bank of Baroda, North Zone, New Delhi in imposing upon Sh. Attar Singh the punishment of reduction of 5 stages in pay scale with cumulative effect and withdrawal of Head Cashier Allowance permanently vide order dated 02.06.1999 is reasonable , valid , legal and justified? If not, what relief and benefit the workman is entitled to?'

On 26.11.2001 reference was received in this Tribunal. Which was register as I.D No. 82/2001 and claimant union was called upon to file claim statement with in fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 11.07.2002. Through which he prayed as follows:-

"It is prayed that the Hon'ble Tribunal may kindly pass award holding the orders of punishment are illegal and invalid and are liable to be set aside for the reasons stated above. It may further be held that the workman is entitled to all consequential benefits including pay-revisions and increments fallen, etc."

Against claim statement management filed written statement on 4.04.2003 Through which it prayed as follows:-

a. To hold that the order of references are invalid and illegal incapable of being entertained and answered by the Tribunal in accordance with law save to declare the same as prayed above;

b. To hold that the domestic enquiry held by the Bank and the findings of the enquiry officer are substantially just, fair and in conformity with the mandate of law as well as pronouncements of law and that no prejudice has been caused to the workman;

c. To hold that the punishment imposed on the workman is not disproportionate to the gravity of misconduct found proved against him;

Against which workmen filed rejoinder on 4.11.2003. Where-in he prayed as follows:

"It is prayed to the Hon'ble Tribunal that award holding that the orders of Disciplinary and Appellate Authority are illegal and invalid and set-aside the same and it may further be held that the workman is entitled to the increments illegally stopped and also entitled to Head Cashier Allowance and other consequential benefits including pay revisions and increments fallen during the intervening period and seniority. Interest @ 10% per annum also be awarded to the workman on the amount payable to the workman on account of the imposition of punishment. Prayed accordingly.

"My Ld. Predecessor on 19.04.2005 framed following issues:-

1. Whether the reference in questions is invalid?

2. Whether the departmental enquiry is fair and proper or was conducted fairly? OPM

3. Whether the present reference is not maintained in written statement? OPM

4. In terms of reference?

Several opportunities were given to workman to adduce his evidence but he failed then on 11.03.2014. Evidence of workman was closed and 21.04.2014 was fixed for management evidence. On 17.10.2014 management filed affidavit of management witness Sh. S.S. Khemka Enquiry Officer which was tendered on 8.10.2015.

Statement of MW1 is as follows:-

I tender my affidavit in my evidence Exh. MW1/A. Which bears my signature at point A and B. I rely upon the documents Exh. M1/1 & MW1/4. Which are already relied upon by the workman and filed alongwith his statement of claim.

I did not want to Exh. MW1/2.

XXX:- Nil as none present to cross-examine the witness.

MW1 was not cross-examined by Ld. A/R for the workman.

So his evidence is unrebutted MW1 is Retired Officer of Bank. So his evidence comes within category of reliable and credible evidence which cannot be overlooked.

However after long gap application on behalf of workman moved under order 18 R 17 read with S.151 C.P.C. Through which workman prayed for setting aside order dated 11.03.2014 and 3.12.2016 and sought permission to lead his evidence in this old I.D. of 2001 as well as sought permission to cross-examine MW1 which was rejected by detailed order on 6.4.2016. Aforesaid order has not been challenged by workman.

Workman and management filed written arguments.

On the basis of written arguments I perused the pleadings and evidence of parties on record.

My issuewise findings are as follows:-

Findings on Issue no. 1 and 3 .

Burden to proof to prove Issue No. 1 and 3 lies on management but management adduced no evidence on this point hence Issue No.1 and 3 liable to be decided in favour of workman and against management . Which are accordingly decided .

Findings on Issue no. 2

Burden of proof to prove Issue no. 2 lies on workman as well as management .

In the instant case workman even after several opportunities adduced his no evidence to show that principles of natural justice were not followed hence enquiry is not just, proper , fair and legal.

But management through its unrebutted reliable and credible evidence proved that departmental enquiry was conducted fairly hence it was just, proper and legal. Hence Issue No.2 is liable to be decided against workman and in favour of management. Which is accordingly decided.

Finding on Issue No. 4

It is related to relief to workman. But issue No. 2.has already been decided against workman. So workman is entitled to no relief. Issue no. 4 is accordingly decided.

Reference is liable to be decided in favour of management and against workman. Which is accordingly decided. Claim statement is dismissed.

Award is accordingly passed.

Dated:-14.06.2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1426.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्रा के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-2, मुंबई के पंचाट (संदर्भ सं. 25/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/05/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1426.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2013**)** of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure in the Industrial Dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/05/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT : M. V. DESHPANDE, Presiding Officer/Judge

REFERENCE NO. CGIT-2/ 25 of 2013

EMPLOYERS IN RELATION TO THE MANAGEMENT OF BANK OF MAHARASHTRA

The Chairman & Managing Director,
Bank of Maharashtra, Lokmangal 1501,
Shivaji Nagar, Pune-411005

AND

THEIR WORKMEN

The Organizing Secretary
Bank of Maharashtra Karmachari Sena
25, Union House, 1st floor
Brelvi Marg, Fort
Mumbai-400 023

APPEARANCES :

FOR THE EMPLOYER : Mr. M.B. Anchan, Advocate

FOR THE WORKMAN : Mr. S.Z. Chowdhary, Advocate

Mumbai, dated the 30th May, 2016

AWARD

1. The Govt. of India, Ministry of Labour and Employment by its order No.L-12011/05/2013 IR(B-II) dated 18.4.2013 in exercise of the powers conferred by Clause(d) of sub-section(1) and sub-section (2A) of section 10 of the Industrial Dispute Act,1947 (14 of 1947) has referred the following Industrial Dispute to the Tribunal to the adjudication.

> "*Whether the action of the management of M/s Bank of Maharashtra, Pune denying the 'Compassionate Allowance' to Shri Mukund M. Ghate, Ex-employee is proper and justified? What relief the workman is entitled to?"*

2. After receipt of Reference, notices were issued to both the parties. In response to the notice, Second party workman has filed Statement of Claim Ex-4. According to him, he had been in the employment of bank w.e.f. 12.09.69. He was terminated w.e.f. 28.3.2000 after completing 30 years of employment. At the time of termination of his services, he was designated as Head Cashier and was posted in Dwarka Nasik Branch of the Bank. The Provident Fund Account No of the workman is 2714. He was paid his PF accumulations in the year 2008. He is entitled to interest on the PF amount till the date of payment. However, instead of paying interest on the PF amount till the date of payment, he was paid interest on the said amount only for 3 months. He, therefore, repeatedly approached the bank for the payment of interest for the balance period, but the bank has not paid the same to him till date.

3. According to him after termination of his services, he had repeatedly approached the bank-management for Compassionate Allowance to which he is entitled to under the rulesof the Bank. However, the same has not been paid to him till date on false, baseless and concocted premises.

4. According to him his financial condition is not sound, his wife is not working in the bank and his son is also not residing with him or maintaining him. The Compassionate Allowance has been denied to him without following Principles of Natural Justice in as much as no personal hearing was given to him before taking decision adverse to his interests. The action of the Bank management is, therefore per se illegal and bad in law.

5. According to him in this regard he has sent several letters to the Bank apart from visiting the bank. He had also sent letter of demand dated 12th March, 2012 to the General Manager of the Bank which has been duly received by him. However, there is no response whatsoever from him in the matter. He therefore, had sent another letter of demand dated 16th April, 2012 to the Chairman cum Managing Director of the Bank. Though, both the authorities have duly received the said letters, they have failed and neglected to respond the same.

6. He therefore approaches the Conciliation Officer with request to intervene in the matter as per the provisions of the I.D. Act, 1947. As the conciliation failed, the Labour Ministry sent the Reference to the Tribunal. According to the workman, he is entitled to receive interest on the PF accumulation till the date of actual payment. He is also entitled

to Compassionate Allowance, he is therefore asking for an award directing, the employer to pay the interest on PF (Provident Fund) accumulation and arrears of Compassionate Allowance with interest @ 20% p.a. along with cost.

7. The first party management resisted the Statement of Claim by filing the written statement Ex-7. According to it, the workman was served charge-sheet dated 29.12.1999 for the misconduct or misappropriation of the Bank's funds to the tune of Rs. 3.54 lakhs for which he was charge sheeted under clause 19.5(j) and 19.5(d) of the Bipartite Settlement dated 1996. By doing the said act which is prejudicial to the interest of the Bank involving Bank in serious loss which is major misconduct under Clause 19.5(j) of the Bipartite settlement 1996 and by causing by willful damage to the property of the Bank which is major misconduct under 19.5 (d) of Bipartite settlement 1996.

8. According to the bank in the charge sheet, it is alleged that- Second party workman was working as Cashier in Charge at Dwarka Branch, Nasik since 14.07.1999. On 03.11.1999 the Branch Manager undertook surprise cash verification before the commencement of the business hours in the morning in his presence. During the cash verification, it was revealed that as per cash docket, the closing balance of cash as on 02.11.1999 was Rs. 10, 98,148.06 but the actual cash balance found to be only Rs. 7,43,642. Thus, there was a cash shortage of Rs. 3,54,498.06. Employee has confessed vide his letter dated 03.11.1999 addressed to the Branch Manager Dwarka branch, Nasik that he has misappropriated the above amount of Rs. 3,54,498.06 without the knowledge of Bank Officials. He had made good the amount subsequently on 5.11.1999. Therefore the bank holds him responsible for the said cash shortage and for false reporting of the cash balance in the cash docket, knowing fully-well that the amount of cash actually held was less by Rs. 3, 54,498. The Bank therefore issued him charge sheet.

9. According to the Bank for the said misconduct, an inquiry was held after giving the workman a fair opportunity to defend. Notice of inquiry was given to workman and workman attended the inquiry. The Inquiry Officer read out the Charge Sheet to the workman and asked him whether he had received the charge sheet and has understood the charges. The workman sated that he had understood the charges. In the inquiry the Inquiry Officers asked workman whether he is admitting the charges. The workman replied he has understood both the charges and he is admitting both the charges. The Inquiry Officer also asked to workman whether he wanted to defend his case through his defense representative. The workman stated the he does not want to defend his case through any representative, but he has admitted all the charges leveled against him. During inquiry Presenting Officer submitted about 11 documents in the inquiry. The workman has accepted the documents produced by the presenting officer. Even permission was given to the workman to submit his arguments. In view of these documents submitted by both the parties, the charges leveled against Second party workman are proved beyond doubt. Since the workman admitted his misconduct unconditionally without any reservation, the inquiry officer submitted his report to the Disciplinary Authority holding that all the charges are proved. The Disciplinary Authority after considering the inquiry report and after giving the workman an opportunity of personal hearing and after considering all the submissions made by the workman, the workman is dismissed from service vide order dated 25.3.2000.

10. According to the management before taking disciplinary action, the bank has followed the Principles of natural justice and the findings recorded by the Inquiry Officer are fair, proper, legal and justified. The punishment awarded to the workman is proportionate to the misconduct committed by him.

11. It is contended by the management that the Compassionate Allowance is paid under clause 31(1) of Bank of Maharashtra Employees' Pension Regulations, 1995. The competent authority had rejected the claim of workman for Compassionate Allowance as the workman Mr. Ghate had committed the gross misconduct under Clause 19.5(j) and Clause 19.5 (d) of Bipartite Settlement 1996. The decision of competent authority was based on facts. The Bank had lost trust in him. The integrity and the honesty of the employee i.e. Mr. Ghate is of vital importance. Due to breach of trust and dishonesty of Mr. Ghate he did not deserve any special consideration for sanction of Compassionate Allowance. His request for reconsideration for payment of Compassionate Allowance was disallowed by competent authority and decision was conveyed to him vide letter dated 9.5.2011.

12. According to the First party management, the workman is not entitled to payment of interest on the Provident Fund and Compassionate allowance as per the provision of Bank of Maharashtra Employee's P.F. Rules. Hence, he is not entitled to any relief. Hence First party Bank prays that Reference be rejected with cost.

13. Following are the issues for my determination. I record my findings thereon for the reasons to follow:

Sr no.	**Issues**	**Findings**
1	Whether the action of the management in denying the 'Compassionate Allowance' to Shri Mukund M. Ghate, Ex-employee is proper and justified?	Yes.

2	What relief the concerned workman is entitled to?	Not entitled to any relief.
3	What Order?	As per final order.

Reasons

Issue No. 1:

14. Herein the fact is not disputed that the workman had been in employment of the bank from 12.9.1969. He was terminated w.e.f. 28.3.2000 after completing of 30 years of employment. In his cross-examination the workman has admitted that he was served with Charge Sheet for misappropriation of Rs. 3,54,498.06. As per his glaring admission in the inquiry, he has admitted the charge. He even admitted that the misconduct on his part was of major nature and he was dismissed from the service. He even admitted that, it being major misconduct, the competent authority had not granted Compassionate Allowance. He even admitted that he is not entitled to Compassionate Allowance, this glaring admission in his Cross-examination disentitles him from claiming Compassionate Allowance when he himself admitted that he is not entitled to any Compassionate Allowance.

15. It is significant to note that in his statement of claim the workman has not even stated that he was served with the Charge sheet dated 29.12.1999 for the misconduct of misappropriation of Bank's fund to the tune of Rs 3.54 lakhs. He has not stated in statement of claim that the inquiry was held in respect of misconduct but then admitted in cross-examination that in inquiry he had admitted the charge and also repaid the misappropriated amount to the bank. In Statement of Claim he has stated that he had been terminated 28.3.2000 but in Statement of claim, he has not stated that he has been terminated after inquiry as regard the alleged misconduct of misappropriation of huge amount to the tune 3.54 lakhs. That would show that workman Shri Mukund M. Ghate has tried to suppress the material facts.

16. In his evidence Mr. Sushil S. Chavan, Chief Manager, Zonal Office Bank of Maharashtra has specifically stated that notice of inquiry was given to the workman and workman attended the inquiry. He then stated that the workman admitted all the charges leveled against him and even 11 documents submitted by management were admitted by workman and the workman even did not want inspection of these documents. In his evidence, he has stated that opportunity was given to workman to defend himself through his defense representative to which he denied. The Inquiry Officer submitted the inquiry report and on the basis of inquiry report, after giving an opportunity to the workman of personal hearing and after considering all the facts he was dismissed from service vide order dated 25.3.2000. This sort of evidence of management is acceptable since his cross-examination in this respect has not been shattered.

17. The workman has not challenged the termination, so the only decisive question is whether he is entitled to Compassionate Allowance.

18. In this respect it is useful to refer clause 31(1) of the Bank of Maharashtra Employees' Pension Regulation 1995. It reads as under-

"An employee, who is dismissed or removed or terminated from service, shall forfeit his pension"

Provided that authority higher than the authority competent to dismiss or remove or terminate him from service may, if-

1. Such dismissal, removal or termination is on or after the 1st day of November 1993; and
2. The case is deserving of special consideration, sanction a Compassionate Allowance not exceeding two-thirds of the Pension which would have been admissible to him on the basis of the qualifying service rendered up to the date of his dismissal, removal or termination.

19. On going through this clause 31(1) of Bank of Maharashtra Employees' Pension Regulation 1995, it is clear that the authority higher than the authority competent to dismiss or remove or terminate employee may consider the case in respect of Compassionate Allowance and if the case is deserving special consideration then only the authority may sanction a Compassionate Allowance not exceeding two thirds of the pension. In the case in hand, it is clear that the competent authority has considered and rejected the claim of the second party employee in respect of Compassionate Allowance on the ground that Mr. Ghate had committed gross-misconduct under Clause 19.5(j) Clause 19.5(d) of Bipartite Settlement dated 1996. It appears that the decision of the competent authority was based on facts and the said decision was conveyed to the workman Mr. Ghate by letter dated 19.6.2012.

20. Charges against Mr. Ghate are in respect of misappropriation of huge amount of the funds of Bank to the tune of Rs. 3.54 lakhs. He was in-charge at Dwarka Branch and was doing job in respect of handling of cash of the Bank which is the matter of trust and confidence. By committing misappropriation of such a huge amount concerned employee Mr. Ghate had lost trust and confidence and considering misconduct his claim for Compassionate Allowance is rejected twice, since integrity and honesty of employee is of vital importance in the Banking Industry which deals with public money. In view of that the admission of second party employee Mr. Ghate in his cross-examination is

sufficient to come to the conclusion that he is not entitled to Compassionate Allowance. I find therefore that the action of Management in denying the Compassionate Allowance to ex-employee Mr. Ghate is proper and justified. Issue No. 1 is answered accordingly in the affirmative.

Issues Nos.2 and 3:

21. So far contentions go, it is contended by the second party employee in his Statement of claim that he is entitled to interest at the rate of 20% p.a. on PF accumulation till the date of actual payment. It is contended that PF and Compassionate Allowance has been 'with-held' by employer bank without any justification.

22. In this respect, in his affidavit Mr. Ghate has stated that he was paid PF accumulation in the year 2008. He admits that he was paid interest on the said amount for the period of 3 months. So far claim as regards interest on the PF accumulation amount, it appears that he has received the interest on the accumulated PF as per the provisions of Bank of Maharashtra Employees Provident Fund Rules.

23. It is not the case that the second party workman has not received the interest on PF amount, so it cannot be said that the management has illegally withheld the amount. When admittedly second party employee has received the interest for 3 months on the accumulated PF amount, then he is not entitled to further interest on the said amount. Even in his evidence second party employee has not made it clear as to how he is entitled to such interest on accumulated PF, since in his evidence he has not stated on which date, he has received accumulated PF amount and even in Statement of Claim he has concealed the facts that he has received interest for the period of three months on accumulated PF amount. Considering his evidence, I find that he is not entitled to claim interest on accumulated PF amount as claimed by him. For these reasons, I find that the claim of second party workman is not sustainable and the Reference deserves to be rejected. Hence order:

ORDER

Reference is rejected with no order as to cost.

Date: 30.05.2016

M. V. DESHPANDE, Presiding Officer

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1427.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 42/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/12/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1427.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12012/12/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 42/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Sri G. Tamilmani : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Indian Overseas Bank
Central Office
762, Anna Salai
Chennai-600002

Appearance:

For the 1st Party/Petitioner : M/s. T. Ramkumar, Advocates

For the 2nd Party/Respondent : Sri K.K. Sivashanmugam, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/12/2015-IR (B.II) dated 18.03.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is :

"*Whether the action of the Management of Indian Overseas Bank, Chennai in connection with termination of the petitioner, Sri G. Tamilmani is justifiable or not? If not, to what relief the workman is entitled to?"*

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 42/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter Statements respectively. The petuitioenr has filed a rejoinder in answer to the Counter Statement filed by the Respondent.

3. The averments in the Claim Statement filed by the petitioner are these:

The petitioner has joined the service of the Respondent on 01.12.2008. He was engaged as a Temporary Messenger on daily wages and was paid on weekly basis. He was to do the work of cash remittances, loan recovery, buying stationery items, going to the post office and so many other works assigned to him by the Branch Manager. He was also to keep the work premises clean and tidy. In spite of continuous service by the petitioner the Respondent did not regularize him. The Respondent entered into a settlement on 17.02.2011 for absorption of temporary messengers and sweepers. The petitioner was eligible to be absorbed in service. The petitioner submitted an application for absorption with necessary documents. Though he was called for interview, he was not selected or absorbed in service. When the petitioner reported for duty on 16.12.2013 he was denied work. He was informed that he has been terminated from service. The petitioner had been employed continuously without any break from the date of his initial appointment. Having worked continuously for more than 480 days the petitioner was entitled to be absorbed in the permanent service of the respondent. Termination of the petitioner is in violation of Section-25F of the Industrial Disputes Act. The termination of the petitioner from service is in an arbitrary manner, the petitioner is entitled to be reinstated in service. A direction may be issued to the Respondent to this effect.

4. The Respondent has filed Counter Statement contending as below:

The Respondent Bank has a system of proper recruitment procedure for Officers, Clerks and Subordinate Staff. Some Branch Managers have engaged casual labour under certain exigencies like leave vacancy, sudden increase in work, etc. without following the recruitment procedure. The petitioner was engaged as casual labour not based on a proper selection process. The All India Overseas Bank Employees Union had raised Industrial Dispute for regularization of persons who were engaged as sweepers and messengers. After discussion with the Union, as a one-time measure the Respondent entered into a settlement with the Union on 17.02.2011 agreeing to absorb casual and temporary messengers and sweepers, subject to certain conditions and fulfillment of the Bank's recruitment norms. The temporary persons to be so absorbed should have completed 240 days or more in the service of the Respondent in a calendar year preceding 15.11.2010 and should have continued to work in the establishment. Educational Qualification for messengers and sweepers to be absorbed also were fixed. The petitioner had not worked as temporary messenger for the requisite period to be eligible for absorption under the settlement. The petitioner has not produced any document to prove his claim that he had worked at Vallur Branch of the Respondent. His disengagement from the Bank cannot be construed as retrenchment. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the averments in the Counter Statement and reiterating his contentions in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W4 and Ext.M1 to Ext.M7.

7. **The points for consideration are**:

(i) Whether the action of the Management in terminating the petitioner from service is justified?

(ii) What, if any, is the relief to which the petitioner is entitled?"

The Points

8. The petitioner has raised the dispute challenging his alleged termination from service by the Respondent on 16.12.2013. According to the petitioner, he had joined the service of the Respondent Bank at its Vallur Branch as temporary messenger on 01.12.2008. He is said to have been assigned duties of cash remittance, buying stationery items, post office works, etc. and also cleaning the premises. He had applied for absorption in service based on the settlement entered into by the Management and the recognized union on 17.02.2011. However, he was not absorbed in service by the Respondent. He was terminated by the Bank on 16.12.2013. According to the petitioner he had worked for more than 240 days in the calendar year preceding 16.11.2013. In spite of this, he was terminated from service in violation of Section-25F of the Industrial Disputes Act. The petitioner has claimed that his termination is not justified, and seeks to be reinstated in the service of the Respondent with full back wages, continuity of service and other attendant benefits.

9. The Respondent has stated in the Counter Statement that the petitioner was not eligible to be absorbed in service as he did not meet the conditions prescribed in the settlement which is marked as Ext.M1. It is further stated by the Respondent that the petitioner had not worked in the Bank from 2008 as claimed by him.

10. The case of the petitioner is that he was illegally and unjustifiably terminated from service by the Respondent in violation of Section-25F of the Industrial Disputes Act even though he had worked for more than 240 days in the calendar year preceding the date of his termination. He is not claiming absorption on the basis Ext.M1 settlement. So the only question to be considered is whether the termination of the petitioner, if any is justified and whether the petitioner is entitled to be reinstated in service.

11. The petitioner has asserted in the affidavit in lieu of Chief Examination that he had been working in Vallur Branch of the Respondent Bank as temporary messenger from 01.12.2008. However, apart from this assertion made by him he has not produced any document to prove his case. Ext.W1 is the undertaking said to have been given by the petitioner stating that he is covered by the settlements dated 17.02.2011 and is eligible to be absorbed in the service of the Bank as messenger. However, this undertaking does not show the date from which the petitioner has started to work in the bank. Even a date is not available in the document. Ext.W2 also will not serve any purpose for the petitioner. This is the form of a certificate from the Branch Head to certify that the petitioner had been engaged as temporary messenger and had worked for more than 240 days in the Bank preceding 15.11.2010. However, this document does not contain any signature. It is not known for what purpose this document is produced. So there is no evidence to show that the petitioner has started to work in the respondent establishment from the year 2008. Ext.M6 and Ext.M7 are the GL Statements produced by the Bank to establish that the petitioner had not worked in the Bank from December 2008 as claimed by him. The name of the petitioner does not appear anywhere in these documents during the period from December to the cut-off date given as per Ext.M1. So the Respondent has established by these documents that he had not worked in the Bank during the period. So he could not have been absorbed in terms of Ext.M1.

12. Even though the Respondent has denied the case of the petitioner that he has been working in the Bank from 2008, it is admitted by MW1 examined on behalf of the Respondent that he had been working in the Bank as daily labour for few hours from 25.03.2011 but not continuously. It is further stated that he was not eligible to be absorbed in the service of the Bank as he had not worked in the Bank before the cut-off date of 15.11.2010 mentioned in Ext.M1. Thus, though the Respondent has not admitted in the Counter Statement that the petitioner had worked in the Respondent Bank at all it is clear from the Proof Affidavit filed by MW1 that he had been working in the Bank at least from 25.03.2011. If the petitioner had worked in the Bank continuously for 240 days prior to the date of his termination it will be in violation of Section-25F of the Industrial Disputes Act. The details of the engagement of the petitioner could be deciphered to some extent from Ext.M6 and Ext.M7, the GL Statements filed by the Respondent. It could be seen from the statement that the petitioner was being engaged by the Respondent continuously from 25.03.2011. On this date he is seen paid Rs. 130/- towards office cleaning charges. After this, there is payment of Rs. 600/- on 28.03.2011 to the petitioner towards cleaning charges.

13. The case of the petitioner is that he was terminated from service on 16.12.2013. This case of the petitioner is not denied by the Respondent specifically. What MW1 has stated during his cross-examination is that after 16.12.2013 the petitioner was not engaged at Vallur Branch. This statement pre-supposes that he had been working at the Branch until 16.12.2013 as claimed by him. Though the Respondent would contend that the petitioner was being engaged only

intermittently, the GL Statements upto the date of the termination of the petitioner are not produced by the Respondent. If GL Statements pertaining to the period from December 2008 to March 2011 could have been produced, statements subsequent to this also could have been produced by the Respondent. the petitioner has discharged his burden of proving that he had worked continuously upto 16.12.2013 by his evidence itself and also through the admission made by the Respondent. If this was not otherwise the Respondent would have been able to prove it by producing the subsequent GL Statements. Non-production of these documents calls for an adverse inference that the petitioner had been continuously working at Vallur Branch of the Respondent Bank until 16.12.2013 starting at least from 25.03.2011, the date from which he was engaged according to the Respondent. Thus the case of the petitioner that he had worked for more than 240 days continuously preceding 16.12.2013, the date of his termination is to be accepted.

14. The claim of the petitioner is for reinstatement in the service of the Bank. In the normal course this relief could have been given to the petitioner. However, the Respondent Bank had resorted to absorption of temporary messengers and sweepers as an one-time measure and it was for this purpose Ext.W1 settlement was entered into by the Respondent and the recognized Unions. The petitioner was found to be not eligible to be absorbed in service as he did not meet the conditions prescribed by Ext.W1. So rather than reinstatement the proper remedy for the petitioner would be compensation as per the dictum laid down by the Apex court in several judicial pronouncements. Compensation is payable to the petitioner on account of his illegal termination and the same is fixed as Rs. 50,000/- considering the fact that he started to work in the Bank only from March 2011 to December 2013.

15. In view of my discussion above the Respondent is directed to pay Rs. 50,000/- to the petitioner as compensation within a month of publication of the award. In default of payment of the amount, the same will carry interest at the rate of 7.5% from the date of the award.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th May, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri G. Tamilmani

For the 2nd Party/Management : MW1, Sri O.K. Ganesh

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	23.03.2014	Application/Undertaking letter of the petitioner with enclosures for the purpose of absorption of his services as messenger
Ext.W2	23.03.2014	Certificate of employment given to the petitioner by the Branch Head of the Respondent Management
Ext.W3	13.02.2013	Letter given by the Chief Manager of the Respondent Bank, calling upon the petitioner to attend the interview for the post of Messenger
Ext.W4	05.11.2014	2-A dispute filed by the petitioner before the Assistant Commissioner of Labour

On the Management's side

Ex.No.	Date	Description
Ext.M1	17.02.2011	Memorandum of Settlement under section 12(3) of the Industrial Disputes Act, 1947
Ext.M2	23.03.2011	Circular issued by Second Party Bank (Reference No. EST/71/2010-11)
Ext.M3	10.02.2015	Failure of Conciliation
Ext.M4	18.03.2015	Reference Order
Ext.M5	13.04.2015	Notice
Ext.M6	-	GL-7451-Wages Temporary Messengers from 01.12.2008 to 16.12.2013
Ext.M7	-	GL-7490-Sundry charges from 01.04.2009 to 15.11.2010

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1428.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 40/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/10/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1428.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12012/10/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 40/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Sri G. Sudhakaran	:	1st Party/Petitioner
AND		
The General Manager Indian Overseas Bank Anna Salai Chennai-600002	:	2nd Party/Respondent

Appearance :

For the 1st Party/Petitioner	:	M/s. T. Ramkumar, Advocate
For the 2nd Party/Respondent	:	Sri K.K. Sivashanmugam, Advocate

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/10/2015-IR (B.II) dated 19.03.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

> "*Whether the action of the Management of Indian Overseas Bank, Chennai in respect of termination of the service of the petitioner Sri G. Sudhakaran, Messenger is justifiable or not? If not, to what relief the workman is entitled to?*"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 40/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner joined the service of the Respondent Bank in January, 2009. He was not given any written order of appointment. He was engaged on daily wage basis and was paid weekly. Duties such as cash remittance, buying stationery items, post office works and such other works used to be assigned to him by the Branch Manager. He was to keep the premises clean and tidy also. In the meanwhile, on 17.02.2011, the Respondent entered into a settlement for absorption of temporary messengers in the Bank's services. The petitioner who was working as a Temporary Messenger was eligible to be absorbed in the services of the Bank. The petitioner furnished the necessary documents for absorption and on verification of the details furnished by him he was selected and appointed as Messenger in the Respondent Bank by order dated 25.08.2012. He was placed on probation for a period of six months and was confirmed in the service of the Bank on expiry of six months period, by order dated 27.02.2013. While so, the petitioner received an order of termination dated 31.07.2014 terminating his service with immediate effect. The Respondent has alleged that the petitioner submitted false certificate of experience to obtain appointment in the Bank. This allegation is false. Before terminating the petitioner he was not issued with a Charge Memo nor was an enquiry conducted by the Management. The petitioner was not given opportunity to meet the allegations made against him. The petitioner was having requisite educational qualification of 10^{th} standard fail and had completed more than 240 days of continuous service in the calendar year preceding 15.11.2010 and was entitled to be appointed in the service of the Bank. The order of termination on the petitioner is in violation of the provisions of the service regulations and is against principles of natural justice. There is no justification in terminating the petitioner from service. The dispute is raised accordingly. An award may be passed holding that the action of the Respondent in terminating the service of the petitioner is unjustified and also directing the Respondent to reinstate the petitioner in service with full backwages, continuity of service and other attendant benefits.,

4. The Respondent has filed Counter Statement contending as below:

On 17.02.2011 a settlement was entered into between the recognized union and the management of the respondent under Section-12(3) of the ID Act for absorption of temporary messengers/sweepers as one-time absorption, subject of satisfaction of certain educational qualification and prior service conditions. The temporary messengers / sweepers must have worked for 240 or more days in a calendar year as on 15.11.2010 and should have been continued to be working to be eligible for absorption. The petitioner submitted an application as if he is eligible for absorption stating that he has worked for more than 240 days in a calendar year preceding 15.11.2010 in Arani Branch. Based on the declaration given by the petitioner an interview was conducted and the petitioner was absorbed as Messenger in the service of the Respondent. He was served with an appointment letter dated 25.08.2012. Subsequently, on verification by the Respondent it was found that the petitioner did not work in the branch during the period claimed by him. His statement in the application that he was working from January 2009 at Arani branch is not correct. The First Party has given an undertaking to the Bank that if the declaration made by him regarding the period of engagement is found to be false or any documents submitted by him in support of his age, qualification, caste, etc. are found to be bogus, he will be liable to be terminated from service. The declaration given by the petitioner having been found false the Respondent terminated him from service by order dated 31.07.2014. The petitioner had obtained false certificate of service period in connivance with the Manager of the Arani Branch. The contents of the application submitted by the petitioner was tainted with fraud. The CBI, Chennai has conducted investigation and registered cases against Office Bearers of the Trade Union for fraudulently obtaining appointments. The petitioner is not entitled to any relief. The petition is liable to be dismissed.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating the case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ex.W1 to Ext.W7 and Ext.M1 to Ext.M17.

7. **The points for consideration are**:

(i) Whether the action of the Respondent in terminating the petitioner from service is justifiable?"

(ii) What, if any, is the relief to which the petitioner is entitled?"

The Points

8. The Respondent Bank had entered into a settlement on 17.02.2011 with the recognized Trade Union under Section-12(3) of the Industrial Disputes Act by which it has agreed to absorb temporary messengers / sweepers as one time absorption subject to the satisfaction of certain educational qualification and prior service conditions. On the basis of this the petitioner made application for absorption in the Bank and he was selected and appointed as Messenger by order dated 25.08.2012. He was confirmed in service by order dated 27.02.2013 on completion of probation. However the Respondent terminated the petitioner from service by order dated 31.07.2014 even without conducting any enquiry.

9. The case of the petitioner is that he joined the service of the Respondent in the month of January 2009. As per Clause-2 of Ext.M1 the Memorandum of settlement entered into by the Bank under Section-12(3) of the ID Act casual / temporary messengers / sweepers who have worked for more than 5 years in any of the branches / offices in permanent vacancies and completed 240 or more days continuously in a calendar year as on 15.11.2010 and are still working shall be absorbed in the Bank in Phase-I before 30.06.2011 subject to their submitting their required information / certificates. Under Phase-II those who have worked for more than 3 years and less than 5 years and completed 240 or more days in a calendar year as on the same date were to be absorbed in Phase-II. Those who have completed 240 or more days continuously in a calendar year in permanent vacancies for less than 3 years as on 15.11.2010 and are still working were to be absorbed under Phase-III after absorption under Phase-II is completed, also subject to their submitting their certificates. The petitioner stated in his application marked as Ext.W1 that he had joined Arani Branch of the Bank in January, 2009 and continued to work on the date on which he made the application. Ext.W2 is the certificate issued by the Manager of Arani Branch to the effect that the petitioner had been engaged in the branch since January, 2009 that he had worked for 240 days or more in a calendar year preceding 15.11.2010 and he was still being engaged in the branch. The petitioner seems to have been selected for absorption on the basis of his assertion in his application supported by the certificate issued by the Branch Manager.

10. The Respondent had terminated the service of the petitioner on the ground that he actually did not join the Bank in 2009 but he had obtained a false certificate from the Branch Manager, that he played fraud on the Bank and therefore he is not entitled to continue in service. Ext.W5 is the order of termination issued by the Bank to the petitioner stating that he had submitted false certificate in support of his experience to obtain appointment in the Bank and the said act of submitting false certificate has disqualified him from employment and thus he is terminated from service.

11. The case that is advanced on behalf of the petitioner is that the stand of the Respondent that he had not completed 240 days of continuous service before 15.11.2011 is not correct. It is also contended on behalf of the petitioner that the act of Respondent in terminating the petitioner form service without conducting any enquiry is against the terms of the Bipartite Settlement and is against principles of natural justice and for these reasons there is no justification in the termination of the petitioner from service.

12. Before adverting to the question whether the action of the Bank in terminating the petitioner without conducting any enquiry is proper, the question whether the petitioner had become eligible for absorption as per the terms of Ext.M1 settlement can be addressed. It is the specific case of the petitioner that he had entered service of the Bank in the year 2009 and had completed more than 240 days of continuous service and had been working in the Bank at the time when he submitted his application based on Ext.M1. Apart from stating this in his Claim Statement the petitioner had asserted it in the Proof Affidavit in lieu of Chief Examination filed by him also. However, the petitioner has not produced a single piece of paper in support of his assertion that he started to work in the Bank as casually engaged in the year 2009 itself. The attempt of the petitioner has been to put the burden of proving that he has not worked in the establishment for more than 240 days on the Respondent. The counsel for the petitioner has referred to the relevant judicial pronouncements in this respect. Reference was made to the decision of the Madras High Court in WP No. 14059/98 where it was held that the question of burden of proof is a concept that keep shifting from time to time and though the necessary burden is on the workmen to prove the total number of days he had worked, the fact that the Management had denied employment to the workman and that he had produced several pay-slips which were available with him as well as inaction on the part of the Management in not producing statutory registers proves that the burden has shifted to the Management and the Management had not discharged their obligation under law. The counsel for the petitioner has also referred to the decision of the Apex Court in Civil Appeal No. 7463/2009 in this respect. The Apex Court has held in this that the workman having been hired on daily wage basis he would have difficulty in having access to all the official documents, muster rolls, etc. in connection with the service and he having deposed that he had worked for more than 240 days the burden of proof shifts on the employer to prove that he did not complete 240 days of service in the requisite period to constitute continuous service.

13. As already stated the petitioner has not produced even a single piece of paper in support of his case that he was engaged by the Bank in 2009 itself and he had been continuously working in the Bank until Ext.W1 application for absorption was given by him on 11.04.2011. There is only his oral assertion by his affidavit that he had joined the service of the Respondent in 2009 itself.

14. Assuming that the petitioner has discharged his burden of proving that he had worked for more than 240 days and had become eligible to be absorbed in the service of the Bank in terms of Ext.M1 settlement, the burden had shifted on the Respondent to prove otherwise. It can be considered whether the Respondent has succeeded in discharging this burden. The Respondent has examined MW1 in this respect. He was deputed by the Bank for conducting investigation on the allegation that fraud was committed in the absorption of certain employees on the basis of Ext.M1. Apart from the other documents the GL Statements maintained by the Bank were marked as Ext.M15 and Ext.M16, through this witness. The witness has stated that these are statements generated on daily basis. The statements from 02.01.2009 and

upto 11.04.2011 are produced. A perusal of these two documents would show that all miscellaneous transactions of the Bank find a place in these statements on a daily basis. These documents show that the Arani Branch where the petitioner claimed to have been working from 2009 had not made any payment to the petitioner. On the other hand it could be seen from this that during different periods the branch had been paying wages for Messengers to other persons who are named in the statements. The names vary from period to period. However, the name of the petitioner does not find a place anywhere during the relevant period. The case of MW1 is that there is no practice for the Bank in maintaining Attendance Register for casual employees. The only document that would be available would be the statement entered into the computer regarding the transactions on a daily basis. On a perusal of Ext.M15 and Ext.M16 it could be seen that this could not have been documents manipulated. In fact the petitioner has not even made a request to have the documents with the Bank produced to have his case proved. The documents were produced by the Bank on its own to substantiate its case that the petitioner had not been engaged at all before 15.11.2010. By producing the above two documents the Bank has sufficiently discharged its burden of proving that the petitioner had not worked in the Bank during the relevant period.

15. It is clear from the evidence given by MW1 and the documents produced that the petitioner happened to be absorbed in the service of the Bank as a result of fraud. The only document that the petitioner had to rely upon to substantiate the case that he worked for more than 240 days is Ext.W2 a certificate of experience issued by the Branch Manager to the effect that he had been engaged in the branch since January 2009 and continued to be engaged as a Messenger. However, in the light of Ext.M15 and Ext.M16 it is very much clear that the certificate was falsely issued by the Branch Manager without any verification. MW1 has stated under what circumstances the petitioner happened to be absorbed. The petitioner as well as several others had been absorbed by the Bank based on such false certificates issued by the Managers. A criminal case has been initiated against one Umapathy, a Trade Union leader and an employee of the Bank who is said to have been instrumental in obtaining appointments based on false certificates. After the fraud was found out the Bank has issued a Charge Sheet to the Branch Manager. This is marked as Ext.M12. In Ext.M13 the reply to the charge sheet the Branch Manager has stated that Sasikumar, the Branch Secretary of AIOBEU had been mounting pressure on him for signing the certificates. According to him he had signed the certificate in good faith. It is stated in the Investigation Report marked as Ext.M6 that the petitioner had written a letter on 21.06.2014 confessing that he had been working in the Arani Branch as temporary messenger only from 2010. One need not go to the Investigation Report to decide on the genuineness of the certificate. The very fact that the name of the petitioner does not find a place in Ext.M15 and Ext.M16 would show that the petitioner had not worked in Arani Branch during the period in question. From this itself it can be concluded that the certificate is a false one. He was not eligible for absorption as per the terms of Ext.M1.

16. Now the question is whether the Bank had acted illegally in terminating the service of the petitioner without conducting any enquiry. As stated, the argument advanced is that the termination is against the terms of the Bipartite Settlement and against principles of natural justice. In support of his argument the counsel has referred to the decision reported in 1996 1 LLJ 253 of the Madras High Court. It has been held here that if the termination of the employee is held to be based on conduct attaching stigma disciplinary proceedings were necessary as a condition precedent to infliction of termination as a measure of punishment. Since there was no enquiry the termination was found to be vitiated in law. Reference was also made to the decision in 2000 1 LLJ 1388. The Apex Court has held here that if an order had been passed by way of punishment and was punitive in nature it was the duty of the Respondents to hold a regular departmental enquiry and they could not have terminated the services of the Appellant arbitrarily by paying him retrenchment compensation. Lastly reference was also made to the decision of the Karnataka High Court in Writ Appeal 1334/15 where also it was held that the order of termination being not a termination simplicitor but being stigmatic the Tribunal was right in quashing the order of termination while reserving liberty to the Bank to proceed in accordance with the law.

17. According to the petitioner, the Respondent having been terminated his service on the ground that the certificate produced by him was false, it is punitive in nature and therefore an enquiry should have been conducted. In answer to this argument, the counsel for the Respondent has pointed out that if it is a case of fraud it vitiates the very appointment itself and therefore there was no necessity to conduct an enquiry before terminating the petitioner from service. The counsel has referred to the decision of the Apex Court in Civil Appeal 5868/2006 (Superintendent of Post Vs. Valasina Babu). The allegation in the case was that the concerned workman had produced a false community certificate. The Apex Court referred to previous decision where it was held that if the employee concerned had played fraud in obtaining appointment he should not be allowed to get the benefits thereof as the very foundation of the appointment collapses. The Court held that it was not necessary to initiate any disciplinary proceedings against the workman in the background of the case. Reference was also made to the decision in CIVIL APPEAL No. 347/2004 (Bank of India and Another Vs. Avinash D. Mandivikar) where the Apex Court has held that equity jurisdiction cannot be exercised in the case of a person who got appointment on the basis of a false Caste Certificate by playing fraud. Equity of Compassion cannot be allowed to bend the arms of law in case where an individual acquired a status by

practicing fraud, it was further held. Thus it is clear that if it is a case of fraud it is not necessary that a departmental enquiry has been conducted.

18. Even if the case of the petitioner that enquiry should have been conducted is accepted the petitioner is not entitled to any relief in view of the finding entered into by this Tribunal regarding his non-eligibility for absorption as per the terms of Ext.M1. Even though the Bank had not conducted any enquiry the petitioner had sufficient opportunity before this Tribunal to prove that he was eligible for absorption as per the terms of Ext.M1, that he had worked in the Bank for more than 240 days continuously before the cut-off date prescribed in Ext.M1. On the other hand the Bank has successfully established that the petitioner got absorption only because of the certificate falsely obtained by him. So the petitioner is not entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th May, 2016)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri G. Sudhakaran

For the 2nd Party/Management : MW1, Sri R.S. Mani

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	11.04.2011	Application/Undertaking letter of the petitioner for the purpose of absorption of his services as Messenger
Ext.W2	11.04.2011	Certificate of employment given to the petitioner by the Branch Head of the Respondent Management
Ext.W3	25.08.2014	Order of the Respondent Bank, appointing the petitioner as Messenger
Ext.W4	23.05.2013	Order of confirmation i/ssued to the petitioner
Ext.W5	31.07.2014	Order of termination issued to the petitioner
Ext.W6	05.11.2014	2-A dispute filed by the petitioner before the Assistant Commissioner of Labour
Ext.W7	29.12.2014	Reply filed by the Management

On the Management's side

Ex.No.	Date	Description
Ext.M1	17.02.2011	Memorandum of Settlement under section 12(3) of the Industrial Disputes Act, 1947
Ext.M2	23.03.2011	Circular issued by Second Party Bank (Reference No. EST/71/2010-11)
Ext.M3	11.04.2011	Undertaken/Declaration given by First Party
Ext.M4	25.08.2012	Appointment Order issued to First Party
Ext.M5	10.10.2012	Application submitted by First Party
Ext.M6	23.06.2014	Investigation Report filed by Investigation Officer
Ext.M7	21.06.2014	Confession given by the First Party regarding his non-working in the Second Party Bank
Ext.M8	31.07.2014	Termination Order issued to First Party
Ext.M9	-	CBI case filed against Umapathi
Ext.M10	-	News published in print media
Ext.M11	-	Record ceased by CBI

Ext.M12	18.06.2014	Charge sheet issued to the Branch Manager who issued false service certificate and reply received from them
Ext.M13	17.07.2014	Reply to charge sheet
Ext.M14	07.07.2014	Request letter for extension of time to give reply to charge sheet
Ext.M15	-	GL Statement 7490
Ext.M16	-	GL Statement 7451 and 7452
Ext.M17	11.12.2015	Realization of DD for salary in lieu of notice period.

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1429.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 39/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/09/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1429.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 39/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12012/09/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 39/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Sri P. Selvakumar : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Indian Overseas Bank
Central Office
762, Anna Salai
Chennai-600002

Appearance :

For the 1st Party/Petitioner : M/s T. Ramkumar, Advocates

For the 2nd Party/Respondent : Sri K.K. Sivashanmugam, Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/09/2015-IR (B.II) dated 18.03.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"*Whether the action of the Management of Indian Overseas Bank, Chennai in connection with the termination of the petitioner P. Selvakumar is justifiable or not? If not, to what relief the workman is entitled?"*

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 39/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter statement respectively. The petitioner has filed rejoinder in answer to the Claim Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner joined the service of the First Respondent on 11.09.2009 in Tiruvellaivoil Branch. He was engaged as Sweeper-cum-Messenger on daily wages which was paid on weekly basis. His duties included cash remittance, buying stationery items, post office works, delivery of returned cheques to the Head Office and also keeping the place clean and tidy. One Vasu was the permanent messenger in the Bank. After he was transferred in the month of March 2012 the petitioner alone was discharging the entire duties of Messenger / Sweeper in the Branch. On 17.02.2011, the Respondent Bank had entered into a settlement for absorption of temporary messengers / sweepers in the service of the Bank. Though the petitioner submitted his application for absorption this was not considered by the Management. The petitioner had been working in the branch on all days except Sundays. On 22.07.2014, when he reported for duty, he was arbitrarily denied work. The petitioner having worked continuously for more than 480 days in the period of two consecutive years in the Respondent Bank he was entitled to be absorbed in the permanent service of the bank. Rather than absorbing the petitioner, he is terminated from service in violation of Section-25F of the Industrial Disputes Act. The action of the Respondent amounts to unfair labour practice. The petitioner is entitled to be reinstated in service. An order may be passed directing the Respondent to reinstate the petitioner in service with back wages, continuity of service and attendant benefits.

4. The Respondent has filed Counter Statement contending as below:

The Respondent Bank has entered into a settlement with the recognized union on 17.02.2011 for absorption of temporary messengers subject to certain conditions and fulfillment of the Bank's recruitment norms. Applications were called for on the basis of the settlement and eligible persons were selected and appointed. Though the petitioner claims to have worked as Sweeper-cum-Messenger in Tiruvellaivoil Branch of the Respondent from 11.09.2009, he had not worked for the requisite period to be eligible for regularization under the settlement. So he was not considered for absorption. The disengagement of the petitioner cannot be construed as retrenchment. So Section-25F of the Industrial Disputes Act cannot be invoked in the case of the petitioner. After the process of absorption, the entire process of recruitment was made through open recruitment. Sweeping work was thereafter being done through outsourcing process. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to W5 and Exts.M1 to M6.

7. **The points for consideration are**:

(i) Whether the action of the Respondent in terminating the service of the petitioner is justified?

(ii) What, if any, is the relief to which the petitioner is entitled?

The Points

8. The petitioner is said to have started to work in the Respondent establishment at its Tiruvellaivoil Branch on 11.09.2009. According to him, while he was so working, the bank had entered into a settlement for absorption of its temporary messengers/sweepers. He too have submitted application for absorption, but his application was not considered. According to the petitioner apart from denying absorption which was rightfully due to him he was terminated from service also by the Respondent on 22.07.2014. It is claimed by the petitioner that his termination is in violation of Section-25F of the Indsutrial Disputes Act and is entitled to be reinstated in service.

9. The Respondent has denied the claim of the petitioner that he has started to work in the Bank on 11.09.2009. The case of the Respondent is that the petitioner did not satisfy the norms and conditions of the settlement dated 17.02.2011 on the basis of which absorption was given to temporary employees. It is not disputed by the Respondent in the Counter Statement that the petitioner had been in the temporary service of the Bank. However, the Counter Statement does not specify on which date the petitioner had joined service or on which date he was terminated from service. It is seen from the Counter Statement that he was not considered for absorption as he has not become eligible to be appointed as per the norms and conditions of the settlement for absorption.

10. The only claim that is raised by the petitioner in the Claim Statement is that he was wrongly terminated from service in violation of Section-25F of the ID Act while he was working as temporary sweeper-cum-messenger and he is liable to be reinstated in service. The petitioner has given evidence as WW1 to substantiate his case that he has been in the temporary service of the Respondent from 11.09.2009. Ext.W1 seems to be the copy of the application given by the petitioner for absorption. In this he is shown to have been in service as temporary messenger from 11.09.2009. There is also Ext.W2, a certificate from the Branch Head stating that he had been employed as Messenger from 11.09.2009 and continued to work as temporary messenger when the certificate was issued. Ext.W3 is the copy of the forwarding letter by which the application for absorption was forwarded. This is dated 15.04.2011. So the petitioner must have been in service on 15.04.2011.

11. The case of the Bank is that the petitioner had not worked in the Bank as claimed by him. Ext.W1 is a self-serving statement so far as the period of service is concerned. The authenticity of Ext.W2 is not established by examining the official who issued the same.

12. MW1, the Chief Manager was examined on behalf of the Respondent. Though the Counter Statement does not specify from which date the petitioner had started to work in the Bank, the Proof Affidavit of MW1 states that he started to work from 09.08.2010. It is further stated that the petitioner should have worked for more than 240 days in a calendar year prior to the cut-off date of 15.11.2010 given Ext.M1-the Memorandum of Settlement for absorption and it was because he did not comply with this condition he was not absorbed to the post of permanent messenger-cum-sweeper.

13. The initial burden is certainly on the workman to establish that he had worked for the requisite period to enable him to claim the benefit under Section-25F of the Industrial Disputes Act. There is of course the oral evidence given by the petitioner that he had started to work in the establishment from 11.09.2009. The case of the Respondent itself is that there was no practice of maintaining Attendance Register for temporary workers. They used to be paid on cash vouchers raised by the respective Branch Managers. So certainly, so far as a temporary workman is concerned, he will be left without any material to discharge the burden of proving his period of service by any documentary evidence. So his burden of proving his period of service is to be treated as satisfied by his oral assertion. In that case, the burden shifts on the Respondent to prove that the case of the petitioner is not correct, that he did not work during the period claimed by him.

14. It is in order to rebut the evidence given by the petitioner the Respondent has produced Ext.M6-the GL Statement of Tiruvellaivoil branch. The statement is of the period from 16.09.2009 to 15.04.2011. This is probably intended to show that the petitioner did not satisfy the period of 240 days referred to in the settlement prior to the cut-off date. This GL Statement is based on the entry made daily and is a computer generated one. There is no reason to suspect the genuineness of this document. The entries in the document must be treated as generated on the basis of the entries that were made daily in the ordinary course of business transaction by the Bank.

15. On going through Ext.M6, I find sufficient data to prove the case of the Respondent that the petitioner had not worked in the establishment for more than 240 days prior to the cut-off date i.e. 17.02.2011 given in Ext.M1 settlement. The claim of the petitioner is that he had started to work in the establishment from 11.09.2009. The details of transaction from 16.09.2009 are available in Ext.M6. The name of the petitioner as temporary messenger comes up in the document only from 09.08.2010. On this date he is seen paid Rs. 300/- towards wages. Thereafter payment is seen made on 14.08.2010 for the period from 09.08.2010 to 14.08.2010. Such payments are there on subsequent dates also. It could be deciphered from this that the payment was being made at the rate of Rs. 100/- per day. Calculated on this basis it could be seen that the petitioner was working regularly in Tiruvellaivoil Branch of the Respondent from 09.08.2010. However, such entries regarding payment to the petitioner do not find a place on dates prior to 09.08.2010. Even if the petitioner had worked continuously until the cut-off date mentioned in Ext.M1 the petitioner would not have been able to complete more than 240 days of work by that time. So it is only natural that he was not considered for absorption.

16. The case of the petitioner, rather than challenging the denial of absorption, is that he was terminated in violation of Section-25F of the Industrial Disputes Act. As stated, the Counter Statement does not state either the date of engagement or the date of absorption. In the Proof Affidavit filed by MW1 the date of engagement is shown. However, the date of termination is not given even in this. According to the petitioner he was terminated from service

without any notice on 22.07.2014. It has come up during cross-examination of MW1 that the petitioner was not engaged in the Bank from 22.07.2014. That means he had been working in the Bank until 22.07.2014 and he was terminated on this date. It is also admitted by MW1 that no notice of termination or any compensation was given to the petitioner before his termination. MW1 has denied the suggestion that the petitioner had been continuously working in the Bank for more than 240 days in the 12 months prior to 22.07.2014. When the petitioner has discharged the burden of proving that he had worked continuously till 22.07.2014 in the Bank, it was for the Respondent to rebut the evidence by producing reliable evidence. The GL Statement for the period upto 22.07.2014 would have been the best evidence to prove that he had not been in continuous service. The non-production of the GL Statement for the relevant period itself calls for an adverse inference that those are not produced since it would disprove the case of the Respondent that the petitioner did not work for more than 240 days continuously within 12 months prior to the date of his termination. So it is clear that the petitioner was terminated from service in violation of Section-25F of the Industrial Disputes Act.

17. In a normal course, the petitioner would have been entitled to the relief of reinstatement. However, the Bank had resorted to absorption of temporary messengers as a one-time measure and the petitioner was not eligible for absorption. The petitioner had worked in the Bank only for a limited time. The Bank has a recruitment policy of its own. It was in compliance with the directions of the Uma Devi's case Ext.M1 settlement was entered into and absorption was given to some temporary employees based on certain terms and conditions. In the circumstance he is not entitled to reinstatement. The Apex Court has stated that the proper remedy in such cases will be compensation. Considering the period of service of the petitioner in the service of the Bank, compensation due to him is fixed as Rs. 1,00,000/-. Accordingly, an award is passed as below:

The Respondent is directed to pay the petitioner Rs. 1,00,000/- (Rupees One Lakh only) as compensation within a month of publication of the award. In case of default of payment within the prescribed period, the amount will carry interest @ 7.5% per annum from the date of the award.

An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th May, 2016)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P. Selvakumar

For the 2nd Party/Management : MW1, O.K. Ganesh

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	15.04.2011	Application/Undertaking letter of the petitioner for the purpose of absorption of his services as messenger
Ext.W2	15.04.2011	Certificate of employment given to the petitioner by the Branch Head of the Respondent Management
Ext.W3	05.04.2011	Letter of the Senior Manager of the Respondent Bank, forwarding application for absorption submitted by the petitioner to the Chief Regional Manager
Ext.W4	07.11.2014	2-A dispute filed by the petitioner before the Commissioner of Labour
Ext.W5	29.12.2014	Reply filed by the Management

On the Management's side

Ex.No.	Date	Description
Ext.M1	17.02.2011	Memorandum of Settlement under Section-12(3) of the Industrial Disputes Act, 1947
Ext.M2	23.03.2011	Circular issued by Second Party Bank (Reference No. EST/71/2010-11)
Ext.M3	10.02.2015	Failure of Conciliation
Ext.M4	18.03.2015	Reference Order
Ext.M5	13.04.2015	Notice
Ext.M6	-	GL-7490 – Sundry charges from 01.09.2009 to 15.04.2011.

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1430.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 38/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/08/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1430.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12012/08/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 38/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Smt. P. Vijaya		:	1st Party/Petitioner
	AND		
1.	The General Manager Indian Overseas Bank, Central Office 762, Anna Salai Chennai-600002	:	2nd Party/1st Respondent
2.	The Chief Manager Indian Overseas Bank Periyar Nagar Branch Chennai-600082	:	2nd Party/2nd Respondent

Appearance :

For the 1st Party/Petitioner	:	M/s V. Sivalingam, Advocates
For the 2nd Party/1st & 2nd Respondent	:	Sri K.K. Sivashanmugam, Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/08/2015-IR (B.II) dated 18.03.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"*Whether the action of the Management of Indian Overseas Bank, Chennai in connection with the termination of the petitioner Smt. P. Vijaya, Part-Time Sweeper without conducting enquiry is justifiable or not? If not, to what relief the petitioner, P. Vijaya is entitled to?*"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 38/2015 and issued notices to both sides. Both sides have entered appearance through their counsel and filed Claim and Counter statement respectively. The petitioner has filed rejoinder in answer to the Claim Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner was appointed as Part-Time Sweeper in the Respondent Bank, Periyar Nagar Branch on consolidated pay, in the year 1998. Though she made several representations to the Respondents to regularize her in service, they have not taken any steps. On 30.08.2011 the petitioner submitted an application to the Respondents to appoint her in the vacancy for the post of Sweeper. She was appointed as Sweeper by order dated 07.09.2011 after scrutinizing all the certificates. While she was working as such, she was terminated from service on 21.01.2014 on the ground that she has submitted bogus certificate of educational qualification at the time when she joined the Bank. The petitioner has worked for more than 2 years continuously on regular basis. The petitioner was not issued with any Charge Memo nor was an enquiry conducted by the First Respondent Bank before she was terminated from service. The termination of the petitioner is illegal and non-sustainable in law. The petitioner had studied upto 5th standard in Gummidipundi Panchayat Union Elementary School. When she requested for a duplication transfer certificate she was told that records are not available in the school. The petitioner having been terminated from service illegally she is entitled to be reinstated in service with continuity of service, backwages and other benefits.

4. The Respondent has filed Counter Statement contending as below:

The First Respondent Bank has entered into a settlement with the recognized union for one-time absorption of casual / temporary messengers / sweepers. The educational qualification for the post of Sweepers was fixed as pass in 5th standard but should not have passed 8th standard, as per the above settlement dated 17.02.2011. the petitioner was absorbed as permanent sweeper in the service of the Bank based on the declaration made by her regarding her age, educational qualification and prior service. On verification by the Regional Office it was found that the educational qualification certificate submitted by the petitioner is a fraudulent one. It was revealed on enquiry that she has not studied in Gummidipundi Panchayat Union School with Admission No. 603, the Admission Number shown in the certificate submitted by her. The petitioner has gained employment in the Bank wrongfully. She has not satisfied the terms and conditions of settlement dated 17.02.2011. While joining the post of Messenger the petitioner has given an undertaking that if the declaration made by her regarding her engagement is false she is liable to be terminated from the service of the Bank. Having found the certificate submitted by the petitioner to be bogus, she was terminated from service by order dated 21.01.2014. No enquiry was required before termination of the petitioner as she has obtained employment by playing fraud. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and MWs 1 and 2 and documents marked as Exts.W1 to W9 and Exts.M1 to M11.

6. **The points for consideration are**:

(i) Whether the action of the First Respondent in terminating the petitioner from service is justified?

(ii) What, if any, is the relief to which the petitioner is entitled?

The Points

7. Indian Overseas Bank represented by the First Respondent had entered into a settlement with its recognized union on 17.02.2011 by which it has agreed to absorb casual / temporary messengers / sweepers on certain conditions. Ext.M1 is the Memorandum of Settlement entered into by the Bank with the Union. One of the conditions for absorption was that those who are seeking absorption in the post of Sweepers should have passed 5th standard or its equivalent but should not have passed 8th standard. The petitioner who had been working as temporary sweeper at Periyar Nagar Branch of the Bank had also applied for the post of Sweeper and she was selected and appointed in the post by order dated 07.09.2011. Ext.M4 is the order of appointment. Ext.M5 is the copy of the application submitted by the petitioner for getting appointment. The application included an undertaking to the effect that if the declaration made by the petitioner regarding the period of engagement, qualification, etc. Is found bogus she would be liable to be terminated from service. There is a further undertaking that in case the certificates produced by her are found to be forged or tampered with she is liable to be terminated from service with one month's notice or on payment of a month's salary in lieu of notice.

8. According to the Respondents, the petitioner was selected to the post of Sweeper only based on the declaration made by her regarding her educational qualification, prior service, etc. On primary verification by the Regional Office, it was found that the petitioner had not studied in Gummidipundi Panchayat Union School with Admission No. 603 where she had purportedly studied and had produced a certificate having Admission no. 603. The investigating Official deputed by the Bank is said to have made further investigation on which it was found that the certificate of educational qualification produced by the petitioner is bogus. The petitioner is said to have been terminated from service on

account of this, without conducting any enquiry. Ext.M8 is the order of termination issued to the petitioner. As referred to in the undertaking, in lieu of one month's notice a draft for one month's salary was given to the petitioner before she was terminated from service.

9. The case of the petitioner is that the action of the Respondent in terminating her even without conducting any departmental enquiry is illegal and unjustified. According to her, she having been selected to the regular post of Sweeper in the service of the Respondent she is governed by the terms of the Bipartite Settlement and she should have been issued with a charge sheet and an enquiry should have been conducted before deciding to terminate her from service. The stand of the Respondent is that such an enquiry was not required in view of the very undertaking given by the petitioner and also because there was no necessity to conduct an enquiry as the case is one involving fraud.

10. Before going to the question whether an enquiry was required or not is necessary to consider whether the certificate of educational qualification submitted by the petitioner for getting appointment in the Bank is a genuine one. Ext.W1 is the copy of the mark sheet produced by the petitioner. This is purportedly issued by the Headmaster of the Gummidipundi Panchayat Union School. The Admission Number of the petitioner is shown is 603 in this. She is shown to have been promoted from 5th standard in the year 1983. Ext.W5 is the copy of the affidavit submitted to the Manager of the Bank regarding her educational qualification.

11. MW1 is the one who had conducted investigation in the fraud allegedly committed by the petitioner and some other employees who had been appointed on the basis of Ext.M1 settlement. This witness has stated that the Headmaster of the concerned school had stated that the Record Sheet produced by the First Party while joining the service of the Bank was not matching with the records of the school and it is a bogus and forged one.

12. The present Headmaster of Panchayat Union School, Gummidipundi had been examined by the Respondents to show that the Record Sheet submitted by the petitioner is a bogus one. The witness have brought the original Record Sheet maintained at the school and also produced a photocopy of the same. On comparing the photocopy with the original the same has been marked as Ext.M11. The Headmaster has stated that the original record is usually maintained in the school as one original and one duplicate. The duplicated is kept unfilled. The practice was that whenever the student wanted the records the duplicate will be filled up, signed and issued. When such duplicate is issued that will be recorded in the original record sheet also. The witness has stated that Admission No. 603 is in respect of a student by name Anjala and not that of Vijaya, the petitioner. He has further stated that the duplicate of the original Record Sheet is not available in the Record Sheet book. He has further stated that he has not issued the duplicate record sheet and that Ext.W1-Record Sheet is not a genuine document. In Ext.M11 the copy of the original record sheet, the date of birth of the student is given as 25.05.1974. In Ext.W1 the date of birth shown is 08.08.1974. there is difference also in the community, father's name and the marks entered in the columns for the same. MW2 has stated that the signature in Ext.W1 is not that of Sri Subramaniam, the previous Headmaster. The date of issue of the Record Sheet is not shown in Ext.W1. On the other hand, Ext.M6 includes the copy of the mark sheet that was issued by the previous Headmaster Subramaniam on 18.06.2013. MW2 has stated that he can identify the signature of Subramaniam in Ext.M6. The version of MW2 regarding the Record Sheet was not challenged in cross-examination. There is no reason to reject the evidence given by MW2 to the effect that Ext.W1-record Sheet is a bogus one. It is very much clear from the evidence of MW2 that the duplicate Record Sheet in respect of the student, Anjala which was kept unfilled alongwith the original Record Sheet was utilized to manipulate a false Record Sheet in the name of the petitioner. This must have been done only to satisfy the requirement of Ext.M1-Settlement that the candidate for the post of Sweeper must have passed 5th standard and not passed 8th standard. Thus it is very much clear that the appointment of the petitioner was based on false record sheet that was submitted by her to the Bank alongwith an undertaking.

13. There is the very undertaking given by the petitioner that she is liable to be terminated from service in case the details regarding her qualification, the period of prior service, etc. are found to be bogus. In terminating the petitioner from service the Bank has been acting on the basis of the undertaking given by her.

14. Now the question whether the Bank had acted illegally in terminating the service of the petitioner without conducting any enquiry can be considered. As stated, the argument advanced is that the termination is against the terms of the Bipartite Settlement and is against principles of natural justice and so illegal. In support of this argument the counsel has referred to the decision reported in 1996 1 LLJ 253 of the Madras High Court. It has been held here that if the termination of the employee is held to be based on conduct attaching stigma disciplinary proceedings were necessary as a condition precedent to infliction of termination as a measure of punishment. Since there was no enquiry the termination was found to be vitiated in law. Reference was also made to the decision in 2000 1 LLJ 1388. The Apex Court has held here that if an order had been passed by way of punishment and was punitive in nature it was the duty of the Respondents to hold a regular departmental enquiry and they could not have terminated the services of the Appellant arbitrarily by paying him retrenchment compensation. Lastly reference was also made to the decision of the Karnataka High Court in Writ Appeal 1334/15 where also it was held that the order of termination being not a

termination simplicitor but being stigmatic the Tribunal was right in quashing the order of termination while reserving liberty to the Bank to proceed in accordance with the law.

15. According to the petitioner, the Respondent having terminated his service on the ground that the certificate produced by him was false, it is punitive in nature and therefore an enquiry should have been conducted. In answer to this argument, the counsel for the Respondent has pointed out that if it is a case of fraud it vitiates the very appointment itself and therefore there was no necessity to conduct an enquiry before terminating the petitioner from service. The counsel has referred to the decision of the Apex Court in Civil Appeal No. 5868/2006 (Superintendent of Post Vs. Valasina Babu). The allegation in the case was that the concerned workman had produced a false community certificate. The Apex Court referred to previous decision where it was held that if the employee concerned had played fraud in obtaining appointment he should not be allowed to get the benefits thereof as the very foundation of the appointment collapses. The Court held that it was not necessary to initiate any disciplinary proceedings against the workman in the background of the case. Reference was also made to the decision Civil Appeal No. 347/2004 (Bank of India and Another Vs. Avinash D. Mandivikar) where the Apex Court has held that equity jurisdiction cannot be exercised in the case of a person who got appointment on the basis of a false Caste Certificate by playing fraud. Equity of Compassion cannot be allowed to bend the arms of law in case where an individual acquired a status by practicing fraud, it was further held. Thus it is clear that if it is a case of fraud it is not necessary that a departmental enquiry has been conducted.

16. Even if the case of the petitioner that enquiry should have been conducted is accepted the petitioner is not entitled to any relief in view of the finding entered into by this Tribunal regarding his non-eligibility for absorption as per the terms of Ext.M1. Even though the Bank had not conduct any enquiry the petitioner had sufficient opportunity before this Tribunal to prove that the Record Sheet produced by her was a genuine one and not bogus as claimed by the petitioner. She has not brought in any evidence in this respect. She did not even challenge the evidence given by MW2 regarding the forgery in the Record Sheet produced by her. On the other hand, the Bank has successfully established that the document of qualification produced by her was bogus. So the petitioner is not entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th May, 2016)

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner	:	WW1, Smt. P. Vijaya
For the 2nd Party/1st & 2nd Management	:	MW1, Sri R.S. Mani
		MW2, Sri M. Sudhakar

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	-	Record Sheet of the petitioner
Ext.W2	11.09.2001	Pay Receipt of the Petitioner
Ext.W3	01.04.2001	Petitioner made representation to the First Respondent
Ext.W4	09.08.2011	Chief Manager sent letter to Regional Office
Ext.W5	-	Petitioner affidavit relating educational qualification
Ext.W6	22.08.2011	Community Certificate of Petitioner
Ext.W7	21.01.2014	Termination Order of Petitioner
Ext.W8	07.02.2014	School Head Master sent letter to the petitioner
Ext.W9	10.02.2015	Failure report of the Conciliation Officer

On the Management's side

Ex.No.	Date	Description
Ext.M1	17.02.2011	Memorandum of Settlement under Section-12(3) of Industrial Disputes Act, 1947
Ext.M2	23.03.2011	Circular issued by Second Party Bank (Ref.No. EST/71/2010-11)
Ext.M3	11.04.2011	Undertaking/Declaration given by First Party
Ext.M4	07.09.2011	Appointment Order issued to First Party
Ext.M5	30.08.2011	Application submitted by First Party
Ext.M6	18.06.2013	Verification report received from the Head Master of School
Ext.M7	09.01.2014	Investigation Report filed by Investigating Officer
Ext.M8	21.01.2014	Termination Order issued to First Party
Ext.M9	-	CBI case filed against Mr. M. Balasubramaniam
Ext.M10	-	News published in Print Media
Ext.M11	15.03.2015	Record Sheet.

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1431.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 37/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/07/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1431.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12012/07/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 13th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 37/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Sri P. Sivakumar : 1st Party/Petitioner

AND

The Managing Director : 2nd Party/Respondent
Indian Overseas Bank
Central Office

762, Anna Salai
Chennai-600002

Appearance :

For the 1st Party/Petitioner : M/s T. Ramkumar, Advocates

For the 2nd Party/Respondent : Sri K.K. Sivashanmugam, Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/07/2015-IR (B.II) dated 18.03.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"*Whether the action of the Management of Indian Overseas Bank, Chennai in respect of termination of the petitioner Sri Sivakumar is justified or not? If not, to what relief the petitioner is entitled to?"*

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 37/2015 and issued notices to both sides. Both sides entered appearance through their counsel and filed Claim and Counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The petitioner joined the service of the Respondent Bank in February 2008. He was not given any written order of appointment. He was engaged on daily wage basis and was paid weekly. Duties such as cash remittance, buying stationery items, post office works and such other works used to be assigned to him by the Branch Manager. He was to keep the premises clean and tidy also. In the meanwhile, on 17.02.2011 the Respondent entered into a settlement for absorption of temporary messengers in the Bank's services. The petitioner who was working as a Temporary Messenger was eligible to be absorbed in the services of the Bank. The petitioner furnished the necessary documents for absorption and on verification of the details furnished by him he was selected and appointed as Messenger in the Respondent Bank by order dated 11.06.2012. He was placed on probation for a period of six months and was confirmed in the service of the Bank on expiry of six months period, by order dated 11.12.2012. While so, the petitioner received an order dated 31.04.2014 terminating his service with immediate effect. The Respondent has alleged that the petitioner submitted false certificate of experience to obtain appointment in the Bank. This allegation is false. Before terminating the petitioner he was not issued with a Charge Memo nor was an enquiry conducted by the Management. The petitioner was given opportunity to meet the allegations made against him. The petitioner was having requisite educational qualification of 10th standard fail and had completed more than 240 days of continuous service in the calendar year preceding 15.11.2010 and was entitled to be appointed in the service of the Bank. The order of termination on the petitioner is in violation of the provisions of the service regulations. There is no justification in terminating the petitioner from service. The dispute is raised accordingly. An award may be passed holding that the action of the Respondent in terminating the service of the petitioner is unjustified and also directing the Respondent to reinstate the petitioner in service with full backwages, continuity of service and other attendant benefits.,

4. The Respondent has filed Counter Statement contending as below:

On 17.02.2011 a settlement was entered into between the recognized union and the management of the respondent under Section-12(3) of the ID Act for absorption of temporary messengers/sweepers as one-time absorption, subject of satisfaction of certain educational qualification and prior service conditions. The temporary messengers / sweepers must have worked for 240 or more days in a calendar year as on 15.11.2010 and should have continued to work to be eligible for absorption. The petitioner submitted an application as if he is eligible for absorption stating that he has worked for more than 240 days in a calendar year preceding 15.11.2010 in Nazarethpet Branch. Based on the declaration given by the petitioner an interview was conducted and the petitioner was absorbed as Messenger in the service of the Respondent. He was served with an appointment letter dated 11.06.2012. Subsequently, on verification by the Respondent it was found that the petitioner worked from 28.12.2010 to 26.09.2011 which is the period after the cut-off date only. His statement in the application that he was working from February 2007 to April 2011 at Nazareth Branch was not correct. The First Party has given an undertaking to the Bank that if the declaration made by him regarding the period of engagement is found to be false or any documents submitted by him in support of his age, qualification, caste, etc. are found to be bogus, he will be liable to be terminated from service. The declaration given by the petitioner having been found false the Respondent terminated him from service by order dated 31.05.2014. The petitioner had obtained false certificate of service in connivance with the Manager of the Nazarethpet Branch. The contents of the application submitted by the petitioner was tainted with fraud. The CBI, Chennai has conducted investigation and registered cases against Office Bearers of the Trade Union for fraudulently obtaining appointments. The petitioner is not entitled to any relief. The petition is liable to be dismissed.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating the case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ex.W1 to Ext.W7 and Ext.M1 to Ext.M15.

7. **The points for consideration are**:

(i) Whether the action of the Respondent in terminating the petitioner from service is justifiable?"

(ii) What, if any, is the relief to which the petitioner is entitled?"

The Points

8. The Respondent Bank had entered into a settlement on 17.02.2011 with the recognized Trade Union under Section-12(3) of the Industrial Disputes Act by which it has agreed to absorb temporary messengers/sweepers as one time absorption subject to the satisfaction of certain educational qualification and prior service conditions. On the basis of this the petitioner made application for absorption in the Bank and he was selected and appointed as Messenger by order dated 11.06.2012. He was confirmed in service by order dated 11.12.2012 on completion of probation. However the Respondent terminated the petitioner from service by order dated 31.05.2014 even without conducting any enquiry.

9. The case of the petitioner is that he joined the service of the Respondent in the month of February 2008. As per Clause-2 of Ext.M1 the Memorandum of settlement entered into by the Bank under Section-12(3) of the ID Act casual / temporary messengers / sweepers who have worked for more than 5 years in any of the branches / offices in permanent vacancies and completed 240 or more days continuously in a calendar year as on 15.11.2010 and are still working shall be absorbed in the Bank in Phase-I before 30.06.2011 subject to the submitting the required information / certificates. Under Phase-II those who have worked for more than 3 years and less than 5 years and completed 240 or more days in a calendar year as on the same date were to be absorbed. Those who have completed 240 or more days continuously in a calendar year in permanent vacancies for less than 3 years as on 15.11.2010 and are still working were to be absorbed under Phase-III after absorption under Phase-II is completed, also subject to their submitting their certificates. The petitioner stated in his application marked as Ext.W1 that he had joined the Nazarethpet Branch of the Bank in February 2008 and continued to work on the date on which he made the application. Ext.W2 is the certificate issued by the Manager of Nazarethpet Branch to the effect that the petitioner had been engaged in the branch since February 2008, that he had worked for 240 days or more in a calendar year preceding 15.11.2010 and he was still being engaged in the branch. The petitioner seems to have been selected for absorption on the basis of his assertion in his application supported by the certificate issued by the Branch Manager.

10. The Respondent had terminated the service of the petitioner on the ground that he actually did not join the Bank in 2008 but he had obtained a false certificate from the Branch Manager, that he played fraud on the Bank and therefore he is not entitled to continue in service. Ext.W5 is the order of termination issued by the Bank to the petitioner stating that he had submitted false certificate in support of his experience to obtain appointment in the Bank and the said act of submitting false certificate has disqualified him from employment and thus he is terminated from service.

11. The case that is advanced on behalf of the petitioner is that the stand of the Respondent that he had not completed 240 days of continuous service before 15.11.2011 is not correct. It is also contended on behalf of the petitioner that the act of Respondent in terminating the petitioner from service without conducting any enquiry is against the terms of the Bipartite Settlement and is against principles of natural justice and for these reasons there is no justification in the termination of the petitioner from service.

12. Before adverting to the question whether the action of the Bank in terminating the petitioner without conducting any enquiry is proper, the question whether the petitioner had become eligible for absorption as per the terms of Ext.M1 settlement can be addressed. It is the specific case of the petitioner that he had entered service of the Bank in the year 2008 and had completed more than 240 days of continuous service and had been working in the Bank at the time when he submitted his application based on Ext.M1 settlement. Apart from stating this in his Claim Statement the petitioner had asserted it in the Proof Affidavit in lieu of Chief Examination filed by him also. However, the petitioner has not produced a single piece of paper in support of his assertion that he started to work in the Bank as casually engaged, in the year 2008 itself. The attempt of the petitioner has been to put the burden of proving that he has not worked in the establishment for more than 240 days on the Respondent. The counsel for the petitioner has referred to the relevant judicial pronouncements in this respect. Reference was made to the decision of the Madras High Court in WP No. 14059/98 where it was held that the question of burden of proof is a concept that keep shifting from time to time and though the necessary burden is on the workmen to prove the total number of days he had worked, the fact that the Management had denied employment to the workman and that he had produced several pay-slips which were available with him as well as inaction on the part of the Management in not producing statutory registers proves that the

burden has shifted to the Management and the Management had not discharged their obligation under law. The counsel for the petitioner has also referred to the decision of the Apex Court in Civil Appeal No. 7463/2009 in this respect. The Apex Court has held in this that the workman having been hired on daily wage basis he would have difficulty in having access to all the official documents, muster rolls, etc. in connection with the service and he having deposed that he had worked for more than 240 days the burden of proof shifts on the employer to prove that he did not complete 240 days of service in the requisite period to constitute continuous service.

13. As already stated the petitioner has not produced even a single piece of paper in support of his case that he was engaged by the Bank in 2008 itself and he had been continuously working in the Bank until Ext.W1 application for absorption was given by him on 23.03.2011. There is only his oral assertion by his affidavit that he had joined the service of the Respondent in 2008 itself.

14. Assuming that the petitioner has discharged his burden of proving that he had worked for more than 240 days and had become eligible to be absorbed in the service of the Bank in terms of Ext.M1 settlement the burden had shifted on the Respondent to prove otherwise. It has to be considered whether the Respondent has succeeded in discharging this burden. The Respondent has examined MW1 in this respect. He was deputed by the Bank for conducting investigation on the allegation that fraud was committed in the absorption of certain employees on the basis of Ext.M1. Apart from the other documents the GL Statements maintained by the Bank were marked as Ext.M13 and Ext.M14, through this witness. The witness has stated that these are statements generated on daily basis. The statements from 24.02.2007 and upto 09.04.2011 are produced. A perusal of these two documents would show that all miscellaneous transactions of the Bank find a place in these statements on a daily basis. These documents show that Nazarethpet Branch where the petitioner claimed to have been working from 2008 had not made any payment to the petitioner prior to 15.11.2011. On the other hand it could be seen from this that during different periods the branch had been paying wages for Messengers to other persons who are named in the statements. The names vary from period to period. However, the name of the petitioner does not find a place anywhere during the period. The case of MW1 is that the Bank has no practice of maintaining Attendance Register for casual employees. The only document that would be available would be the statement entered into the computer regarding the transactions on a daily basis. On a perusal of Ext.M13 and Ext.M14 it could be seen that this could not have been documents manipulated. In fact the petitioner has not even made a request to have the documents with the Bank produced to have his case proved. The documents were produced by the Bank on its own to substantiate its case that the petitioner had not been engaged at all before 15.11.2010. By producing the above two documents the Bank has sufficiently discharged its burden of proving that the petitioner had not worked in the Bank during the relevant period.

15. It is clear from the evidence given by MW1 and the documents produced that the petitioner happened to be absorbed in the service of the Bank as a result of fraud. The only document that the petitioner rely upon to substantiate the case that he worked for more than 240 days is Ext.W2 a certificate of experience issued by the Branch Manager to the effect that he had engaged in the branch since February 2008 and continued to be engaged as a Messenger. However, in the light of Ext.M13 and Ext.M14 it is very much clear that the certificate was falsely issued by the Branch Manager without any verification. MW1 has stated under what circumstances the petitioner happened to be absorbed. The petitioner as well as several others had been absorbed by the Bank based on such false certificates issued by the Managers. A criminal case has been initiated against one Umapathy, a Trade Union leader and also an employee of the Bank who is said to have been instrumental in obtaining appointments based on false certificates. After the fraud was found out the Bank has issued a Charge Sheet to the Branch Manager. This is marked as Ext.M11. In Ext.M12 the reply to the charge sheet the Branch Manager has stated that Umapathy had been mounting pressure on him for signing the certificate. According to him he had signed the certificate in good faith. MW1 has stated in the Investigation Report filed by him and marked as Ext.M6 that most of the certificates about which enquiry was made were in the handwriting of Umapathy and the date of signing has been put as 15.04.2011 in all the certificates and this also was in the handwriting of Umapathy. He has concluded that signatures of Managers were taken by Umapathy in Blank Certificate Form and columns were filled up by himself. One need not go to the Investigation Report to decide on the genuineness of the certificate. The very fact that the name of the petitioner does not find a place in Ext.M13 and Ext.M14 would show that the petitioner had not worked in Nazarethpet Branch during the period in question. From this itself it can be concluded that the certificate is a false one. According to the Respondent the petitioner had joined the Bank only on 28.12.2010. This is subsequent to the cut-off prescribed in Ext.M1 so he was not eligible for absorption as per the terms of Ext.M1.

16. Now the question is whether the Bank had acted illegally in terminating the service of the petitioner without conducting any enquiry. As stated, the argument advanced is that the termination is against the terms of the Bipartite Settlement and against principles of natural justice and so illegal. In support of his argument the counsel has referred to the decision reported in 1996 1 LLJ 253 of the Madras High Court. It has been held here that if the termination of the employee is held to be based on conduct attaching stigma disciplinary proceedings were necessary as a condition precedent to infliction of termination as a measure of punishment. Since there was no enquiry the termination was

found to be vitiated in law. Reference was also made to the decision in 2000 1 LLJ 1388. The Apex Court has held here that if an order had been passed by way of punishment and was punitive in nature it was the duty of the Respondents to hold a regular departmental enquiry and they could not have terminated the services of the Appellant arbitrarily by paying him retrenchment compensation. Lastly reference was also made to the decision of the Karnataka High Court in Writ Appeal 1334/15 where also it was held that the order of termination being not a termination simplicitor but being stigmatic the Tribunal was right in quashing the order of termination while reserving liberty to the Bank to proceed in accordance with the law.

17. According to the petitioner, the Respondent having terminated his service on the ground that the certificate produced by him was false, it is punitive in nature and therefore an enquiry should have been conducted. In answer to this argument, the counsel for the Respondent has pointed out that if it is a case of fraud it vitiates the very appointment itself and therefore there was no necessity to conduct an enquiry before terminating the petitioner from service. The counsel has referred to the decision of the Apex Court in Civil Appeal 5868/2006 (Superintendent of Post Vs. Valasina Babu). The allegation in the case was that the concerned workman had produced a false community certificate. The Apex Court referred to previous decision where it was held that if the employee concerned had played fraud in obtaining appointment he should not be allowed to get the benefits thereof as the very foundation of the appointment collapses. The Court held that it was not necessary to initiate any disciplinary proceedings against the workman in the background of the case. Reference was also made to the decision CIVIL APPEAL No. 347/2004 (Bank of India and Another Vs. Avinash D. Mandivikar) where the Apex Court has held that equity jurisdiction cannot be exercised in the case of a person who got appointment on the basis of a false Caste Certificate by playing fraud. Equity of Compassion cannot be allowed to bend the arms of law in case where an individual acquired a status by practicing fraud, it was further held. Thus it is clear that if it is a case of fraud it is not necessary that a departmental enquiry has been conducted.

18. Even if the case of the petitioner that enquiry should have been conducted is accepted the petitioner is not entitled to any relief in view of the finding entered into by this Tribunal regarding his eligibility for absorption as per the terms of Ext.M1. Even though the Bank had not conducted any enquiry the petitioner had sufficient opportunity before this Tribunal to prove that he was eligible for absorption as per the terms of Ext.M1 that he had worked in the Bank for more than 240 days continuously before the cut-off date prescribed in Ext.M1. On the other hand the Bank has successfully established that the petitioner got absorption only because of the certificate falsely obtained by him. So the petuitioenr is not entitled to any relief.

In view of my discussion above the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 13th May, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri P. Sivakumar

For the 2nd Party/Management : MW1, Sri R.S. Mani

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	23.03.2011	Application/Undertaking letter of the petitioner for the purpose of absorption of his services as Messenger
Ext.W2	23.03.2011	Certificate of employment given to the petitioner by the Branch Head of the Respondent Management
Ext.W3	11.06.2012	Order of the Respondent Bank appointing the petitioner as Messenger
Ext.W4	04.01.2013	Order of confirmation issued to the petitioner
Ext.W5	31.05.2014	Order of termination issued to the petitioner
Ext.W6	05.11.2014	2-A dispute filed by the petitioner before the Assistant Commissioner of Labour
Ext.W7	29.12.2014	Reply filed by the Management

On the Management's side

Ex.No.	Date	Description
Ext.M1	17.02.2011	Memorandum of Settlement under Section 12(3) of the Industrial Disputes Act, 1947
Ext.M2	23.03.2011	Circular issued by Second Party Bank (Reference No. ERST/71/2010-11)
Ext.M3	15.04.2011	Undertaken/Declaration given by the First Party
Ext.M4	11.06.2012	Appointment Order issued to First Party
Ext.M5	11.06.2012	Application submitted by the First Party
Ext.M6	28.12.2013	Investigation Report filed by Investigation Officer
Ext.M7	03.12.2013	Confirmation given by the existing Branch Manager regarding his non-working of First Party
Ext.M8	31.05.2014	Termination Order issued to First Party
Ext.M9	-	CBI case filed against Umapathi
Ext.M10	-	News published in Print Media
Ext.M11	02.04.2014	Charge Sheet issued to the Branch Manager who issued false service certificate and reply received from them
Ext.M12	06.05.2014	Reply to charge sheet
Ext.M13	-	GL Statement 7451
Ext.M14	-	GL Statement 7490
Ext.M15	11.12.2015	Realization of DD for salary in lieu of notice period.

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1432.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 94/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/35/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1432.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 94/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/35/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 4th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 94/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN :

The Deputy General Secretary : 1st Party/Petitioner Union
Indian Bank Employees Union
No. 6, Moore Street
Mannady Corner
Chennai-600001

AND

The General Manager (HRM) : 2nd Party/Respondent
Indian Bank, Corporate Office
264, Avvai Shanmugham Salai
Chennai-600014

Appearance :

For the 1st Party/Petitioner Union : Sri J. Suresh, Authorized Representative

For the 2nd Party/Respondent : M/s Aiyar & Dolia, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/35/2015-IR (B.II) dated 11/17.06.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of Indian Bank regarding not providing the terminal benefit to Sethu Subbaiah, ex-employee of Indian Bank is justifiable or not? If not, to what relief Sri Subbaiah is entitled?"

2. After receipt of the Industrial Dispute this Tribunal has numbered it as ID 94/2015 and issued notice to both sides. Both sides have entered appearance and filed Claim and Counter Statement respectively. The petitioner has filed a rejoinder in answer to the Claim Statement.

3. The averments in the Claim Statement filed by the petitioner are as below:

The dispute is raised on behalf of Sethu Subbiah who was an employee of the Respondent Bank. Sethu Subbiah was initially empanelled as a temporary Sub-Staff and was subsequently absorbed in to the permanent service of the Bank as Peon. At the time of his appointment he had produced his community certificate as instructed. Though Sethu Subbiah is a member of the Scheduled Caste community he was appointed under the General Category only. After 13 years service as Peon he was promoted as Clerk in the year 1996. In the promotion circular the name of Sethu Subbiah was included under the category of Scheduled Caste. The Respondent has referred the community certificate of Sethu Subbiah to the district Collector, Coimbatore for verification and he had issued orders cancelling his certificate. Sethu Subbiah had filed Writ Petition before the Hon'ble High Court of Madras and had obtained stay for the order of the District Collector. Sethu Subbiah attained the age of superannuation on 03.01.2012. Instead of relieving him from service of the Bank he was given communication dated 24.08.2012 stating that he would be separated from the service of the Bank on 31.08.2012 and his terminal benefits would be withheld. The action of the Respondent in denying the terminal benefits to Sethu Subbaiah is illegal and unjustified. Order may be passed holding that the action of the Management withholding the terminal benefits is illegal and also directing the Respondent to disburse all the terminal benefits to Sethu Subbiah.

4. The Respondent has filed Counter Statement contending as below:

The matter arises out of cancellation of the community certificate of Sethu Subbaiah. The state level scrutiny committee, Chennai and District Level Scrutiny Committee, Coimbatore are the verifying authorities regarding the community and they are necessary parties to the claim. Sethu Subbiah was appointed as Peon on 19.04.1983 under Scheduled Caste category subject to verification of his community certificate. In the Appointment Order it was specified that the employee will not be confirmed in service until verification report is received from the concerned authorities. Sethu Subbiah was promoted as Clerk with effect from 07.08.1996. As community certificate verification report was not received the matter was once again referred to the District Collector, Coimbatore. By proceedings dated

21.08.1999 the District Collector cancelled the Community Certificate issued in favour of Sethu Subbiah. Sri Sethu Subbiah filed Writ Petition before High Court of Madras and obtained interim stay against this order. By judgment dated 01.09.2003 the order of the District Collector was quashed and direction was given for verification of the community certificate by three member District Level Vigilance Committee. In the meanwhile, Sethu Subbaiah was placed under cessation on attaining the age of 60 years on 31.08.2012. Since the final report on verification of the community certificate was awaited the employee could not be allowed to retire on superannuation and at the same time he had to be separated from the service of the Bank as on the date of his attaining the age of 60 years. In his application to the post of Sub-Staff Sethu Subbiah had mentioned his community status as Scheduled Caste. He was promoted as Clerk under the reserved category of Scheduled Caste. It is not correct to state that the candidature of Sethu Subbiah was under the General Category. The Community Certificate issued to Sethu Subbiah has been subsequently cancelled by the District Level Scrutiny Committee by order dated 03.05.2013. The action of the Respondent in separating Sethu Subbiah from the service of the Bank is in order. The petitioner is not entitled to any relief. The claim is liable to be rejected.

5. The petitioner has filed a rejoinder denying the averments in the Counter Statement and reiterating the claim in the Claim Statement.

6. The evidence in the case consists of documents marked as Ext.W1 to Ext.W16 and Ext.M1 to Ext.M5. No oral evidence was adduced by either side.

7. **The points for consideration are**:

(i) Whether the action of the Respondent in not providing terminal benefits to Sri Sethu Subbiah is justifiable or not?

(ii) What is the relief, if any to which Sri Sethu Subbiah is entitled?

The Points

8. The dispute is raised on behalf of Sethu Subbiah who had been working in the Respondent Bank as Clerk until 31.08.2012, the age of his superannuation. Sethu Subbiah was working with the Respondent initially as a Temporary Sub-Staff. He was subsequently absorbed in permanent service of the Bank. He was promoted as Clerk in the year 1996. Though Sethu Subbiah reached the age of superannuation on 31.08.2012 the Respondent did not relieve him from service. On the other hand, he was given a letter, a copy of which is marked as Ext.W7 stating that he will be separated from the Bank on 31.08.2012, the date of his attaining the age of 60 years and his terminal benefits would be withheld (except his contribution to the Provident Fund) till such time as the final report on verification of his community certificate is completed and communicated. The Petitioner Union has taken up the issue and has raised the dispute on the ground that withholding of terminal benefits due to Sethu Subbiah is illegal and the same is payable to him immediately.

9. The case of the Respondent is that Sethu Subbiah was appointed as Peon under the Scheduled Caste category and subject to verification of his community certificate, he was promoted as Clerk under Scheduled Caste category w,ef. 07.08.1996. Even then community certificate verification report was not received. So the matter was again referred to the District Collector, by Ext.M3 order, the District Collector cancelled the community certificate of Sethu Subbiah. He approached the Hon'ble High Court of Madras by a Writ Petition and got the order of the District Collector quashed. Ext.W6 is the order of the High Court. As could be seen from the order of the High Court, the order of District Collector was quashed only on the ground that the District Collector is not the competent authority. The order gave liberty to the District Level Committee or a State Level Committee which is the competent authority as the case may be to verify the social status of the petitioner. On the basis of this order of the High Court the Bank referred the matter to the District Level Verification Committee for verification of the certificate. It was while the matter was pending Sethu Subbiah reached the age of superannuation on 31.03.2012. The Respondent took the stand that the release of retirement benefits to Sethu Subbiah would be based on the outcome of the verification done by the concerned committee. It is accordingly Ext.W7 letter was written by the Bank to Sethu Subbiah stating that his terminal benefits would be withheld till such time the final report on verification of the community certificate is completed and communicated. It was further stated that the payment of terminal benefits will be based on the outcome of the findings of the committee referred to earlier.

10. After the dispute was raised the District Level Committee has by Ext.M4 proceedings dated 03.05.2013 decided that Sethu Subbiah having converted to Christianity long before he entered service of the Bank he could not be treated as a member of the Scheduled Caste. Sethu Subbiah does not seem to have challenged this order of the committee.

11. The argument that is advanced on behalf of Sethu Subbiah is that he entered service of the Respondent not in the category of Scheduled Caste but in the Open Quota and for this reason the decision of the Committee is not of any

consequence so far as the payment of terminal benefits are concerned. It is further argued that even promotion of Sethu Subbiah as Clerk was under the General Category only and not in reservation quota and for this reason also his terminal benefits should not have been withheld. The Authorized Representative of the petitioner has referred to Ext.W4, the appointment order issued by the Respondent in this respect. It is by this order dated 19.03.2013 Sethu Subbiah was appointed as Peon in the service of the Bank. The order does not specifically state whether he is appointed in the quota reserved for Scheduled Caste category. However, in the order, there is a direction to the Branch Office to verify the particulars such as date of birth, qualification and category of the employee. In Ext.M1 the application filed by Sethu Subbiah for appointment to the post of Sub-Staff it is stated that he is a member of the Scheduled Caste. In Ext.W13 the copy of the Secondary School Leaving Certificate and Ext.W14, the transfer certificate Sethu Subbiah is shown as member of Adi-Dravida Community which is a Scheduled Caste. Ext.W15 is the Community Certificate issued in favour of Sethu Subbiah stating that he belongs to Adi-Dravida Community. It is this certificate that was cancelled by the District Level Verification Committee as per Ext.M4 order.

12. When the available documents are perused it could be seen that there is no basis for the case put forth by the petitioner that Sethu Subbiah was given employment and given promotion under open quota and not under reservation quota. Ext.W5 is the order by which several employees working as Sub-Staff in the Respondent Bank were promoted to Clerical Cadre. This is a common order issued by the Bank. It is stated in the order itself that the promotees are being individually advised. However, the order of promotion is not produced by the petitioner to substantiate the case that his promotion was under the Unreserved Category. Even as per Ext.W5 it could be seen that the promotees coming under the category of Scheduled Caste are separately listed while the list of persons coming under the General Category are also given separately. The name of Sethu Subbiah is included in the category of Scheduled Caste. So it is clear that it is on the basis of the claim of Sethu Subbiah that he is a member of the Scheduled Caste that he was given promotion in the quota reserved for Scheduled Caste. The petitioner has produced Ext.W16 at the last stage in an attempt to show that Sethu Subbiah comes under Unreserved Category and not under the category of Scheduled Caste. Ext.W16 is the copy of the relevant portion of the post-based roster. However, this document does not show that Sethu Subbiah comes under the Unreserved Category. On the other hand what is seen from this document is that Sethu Subbiah was given posting to an unreserved post as a member of the Scheduled Caste category. It could also be seen that it was to make up for the shortfall in the posting of persons under the Scheduled Caste category that this posting was done. It is not a case of posting of Sethu Subbiah in the Unreserved Category as claimed on behalf of the petitioner. So the argument that Sethu Subbiah having been appointed and promoted under open quota, cancellation of the community certificate by the District Level Verification Committee is not of any consequence could not be accepted. The promotion of Sethu Subbiah was certainly based on a certificate which now stands cancelled so he would not be entitled to the terminal benefits.

13. Sethu Subbiah has been working in the Respondent establishment for several years. In all the documents starting from Secondary School Leaving Certificate he is shown as the member of the Adi-Dravida Community. It is only because he converted to Christianity he lost the status of member of Scheduled Caste. There is no case for the Respondent that Sethu Subbiah has committed any misconduct in the entire career in the Bank starting from 1983. So it is a case where the employee deserves some leniency on the part of the Bank. I think it is a case where the Bank can invoke Section-31 of the Bank Employees Pension Regulations which provides for compassionate allowance for an employee who is dismissed, removed or terminated from service. It is for the Bank to decide how much is the allowance that can be paid to the employee.

With the above observations the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 4th May, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : None

For the 2nd Party/Respondent : None

Documents Marked:

On the Petitioner's side

Ext.No.	**Date**	**Description**
Ext.W1	25.10.2012	Letter to ALC (C), Chennai raising the ID
Ext.W2	19.03.2013	Counter to the above dispute
Ext.W3	01.04.2013	Rejoinder to the Counter

Ext.W4	19.03.1983	Appointment order issued by Indian Bank
Ext.W5	11.07.1996	CO/Personnel Department Circular No. 38/96-97
Ext.W6	01.09.2003	Copy of order WP No. 15571 of 1999 & WMP 22519 of 1999
Ext.W7	24.08.2012	Letter from CO/HRM Department of Indian Bank to Sri Sethu Subbiah
Ext.W8	21.09.2012	Letter from Sri Sethu Subbiah to General Manager (HRM)
Ext.W9	29.09.2012	Letter from CO/HRM Department of Indian Bank to Sri Sethu Subbiah
Ext.W10	22.09.2012	Letter to General Manager (HRM)
Ext.W11	05.09.2013	Letter to General Manager (HRM)
Ext.W12	03.09.2013	Letter from Mr. Sethu Subbiah to Executive Director

On the Management's side

Ext.No.	**Date**	**Description**
Ext.M1	-	Application form dated 01.10.1977
Ext.M2	-	Circular No. PRN:38/96-97 dated 11.07.1996
Ext.M3	-	District Collector's proceedings Ref No. 99888/97 dated 21.08.1999
Ext.M4	-	DLVC proceeding No. 38139/2008/KA3 dated 03.05.2013
Ext.M5	-	Award dated 15.05.2015 in ID No. 53/2014

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1433.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 73/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/34/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1433.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/34/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 11th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 73/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN :

The Deputy General Secretary : 1st Party/Petitioner Union
Indian Bank Employees Union
No. 6, Moore Street
Mannady Corner
Chennai-600001

AND

The Deputy General Manager (HRM) : 2nd Party/Respondent
Indian Bank DO:HRM Department
264, Avvai Shanmugham Salai, Royapettah
Chennai-600014

Appearance :

For the 1st Party/Petitioner Union : Sri J. Suresh, Authorized Representative

For the 2nd Party/Respondent : M/s. Aiyar & Dolia, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/34/2015-IR (B-II) dated 22/28.05.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The Schedule mentioned in that order is:

"Whether the action of the Management of Indian Bank, Chennai regarding denial of promotion to Sri S. Arunachalam, Sub-Staff of the Respondent Bank as per the promotion policy settlement dated 26.02.2010 is justifiable or not? If not, to what relief the workman is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID No. 73/2015 and issued notice to both sides. The petitioner has entered appearance through Authorized Representative and the Respondent through counsel and filed claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The Respondent Management had entered into a settlement with the Federation of Indian Bank Employees Unions on 26.02.2010 regarding direct recruitment of Officers, direct recruitment in Clerical Cadre, promotion to Award Staff and provision of Special Assistant Posts. In terms of the above promotion policy all eligible and willing Sub-Staff members have to pass a written test in computer operations and fundamentals of banking to get promoted as Clerks. The employees against whom disciplinary proceedings are pending for gross misconduct or court cases are pending shall be eligible to appear for the test for promotion. If such employees are found eligible for promotion the promotion will be kept in a sealed cover. In the event of the employee being exonerated of the charges in the disciplinary proceedings or the court proceedings as a case may be the sealed cover shall be opened and acted upon. If the employee is awarded punishment in the disciplinary proceedings or acquitted in the criminal proceedings by giving benefit of doubt or on technical grounds or convicted in the criminal proceedings, the sealed cover shall not be acted upon. If the departmental proceedings or court case have not been completed within 2 years from the date of the charge sheet / filing of the case and the employee is not under suspension his case can be reviewed as per Para-3 of the settlement. After such consideration, in case it is decided to promote the employee, he shall be promoted on an ad hoc basis in the next available vacancy after expiry of the 2 year period from the date of charge sheet / filing of court case if he is otherwise eligible for promotion. S. Arunachalam on whose behalf the present dispute is raised was working as Sub-Staff at Devarshola Branch. He has appeared for the qualifying test for promotion from Sub-Staff to Clerical Cadre held during the year 2011 and was successful. In spite of that he was not promoted as a case has been pending against him. The case is at the CBI Court and there is no chance for the conclusion of the proceedings in Court in the near future. So the Respondent should have invoked Para-3 of the settlement and given promotion to Arunachalam. An order may be passed promoting Arunachalam with retrospective effect from the year 2013 with all arrears of pay and other attendant benefits.

4. The Respondent has filed Counter Statement contending as below:

Arunachalam on whose behalf the dispute is raised has joined the services of the Respondent Bank on 25.01.1993 as Sub-Staff. While working at Gudalur Branch he was transferred to Devarshola Branch on his request. The CBI has filed Charge Sheet against a few staff members including Arunachalam on the allegation that the loan

sanctioned by the Bank to the workmen of Tea Estate of India Ltd. and Parry Agro Industries Ltd. were actually not disbursed to the workers. The amount involved in the case is more than Rs. 3.00 crore. Arunachalam is 5th accused in the case charge sheeted by CBI. On account of the gravity of the misconduct involved and complaints raised by hundreds of estate workmen, the issue of promotion of Arunachalam was not subjected to any review as per the disqualification clause of the promotion policy settlement dated 26.02.2010. A review of cases cannot be demanded as a matter of right. It is within the discretionary powers of the Bank. The case of Arunachalam was not considered because of the case pending before the Court of Law. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating the case in the Claim Statement.

6. The evidence in the case consists of documents marked as Ext.W1 to Ext.W6. The Respondent did not produce any documents on its side. Oral evidence was not adduced by either side also.

7. **The points for consideration are**:

(i) Whether the action of the Respondent regarding denial of promotion to Sri S. Arunachalam, Sub-Staff is justifiable or not?

(ii) What, if any, is the relief to which the concerned workman is entitled?

The Points

8. The dispute is raised on behalf of Arunachalam who is working as Sub-Staff at Devarshola Branch of the Respondent Bank. The grievance of the concerned workman, Arunachalam is that he was denied promotion from the post of Sub-Staff to the post of Clerical Cadre without any justification.

8. According to the petitioner, Arunachalam had appeared for the qualifying test for promotion from Sub-Staff to Clerical Cadre in the year 2011 and had come out successful. This is not denied by the Respondent. The case of the Respondent is that Arunachalam was not considered for promotion since a charge sheet has been filed against Arunachalam alongwith some other staff members and the same is pending. According to the Respondent, because of the pendency of the criminal case the Bank is not bound to consider the case of Arunachalam for promotion.

9. According to the petitioner, even if a criminal case is pending against Arunachalam the Respondent is bound to consider Arunachalam for promotion since the criminal case has been pending for more than 2 years and there is no probability of the case being disposed in the near future.

10. The Respondent has stated in the Counter Statement that the case against Arunachalam and others is as a result of the complaint that was raised by Trade Unions affiliated to All India Organizations like CITU and AITUC in the year 2010. As seen from the Counter Statement, loans to the Estate Workmen of M/s. Tea Estates of India Ltd. and Parry Agro Industries Ltd. availed from Gudalur Branch of the Respondent Bank wherein Arunachalam had earlier worked were not received by the concerned workmen. More than 400 borrowers are said to have availed loan involving an amount of more than Rs. 3.00 crores but those workers have not received the loan amount at all. Arunachalam, the workman concerned is the 5th accused in the case and the case is now pending before a CBI Court.

11. Neither the petitioner nor the Respondent has produced any documents pertaining to the charge regarding which Arunachalam is facing trial. It is seen from Ext.W5, the letter written by the Petitioner Union to the Corporate Office that charge sheet in the case has been filed in Court on 29.06.2010 and 40 out of 84 prosecution witnesses are still to be examined.

12. The petitioner is relying upon the common terms and conditions for Part "A" and "B" in promotion policy settlement entered into between the Respondent and Federation of Indian Bank Employees Unions on 26.02.2010 and marked as Ext.W1 in support of its contention. Para-2 of the disqualification clause under the above terms and conditions provides for the manner in which employees against whom disciplinary proceedings or Court cases are pending are to be dealt with. It states that if such employees are found to be eligible otherwise for promotion after going through the promotion process set out in the settlement the promotion would be kept in a sealed cover and in the event of the employee being exonerated of the charges the employee shall be deemed to have been promoted for the purpose of seniority from the date when his or her immediate junior was promoted but would not be entitled to receive any arrears of salary on account of such notional promotion.

13. The criminal case in which Arunachalam is an accused being still pending, it is not yet time for invoking Para-2 of the disqualification clause. The petitioner is relying upon Para-3 of the clause which provides for cases which were pending for more than 2 years. This para states:

Para-III - where the departmental proceedings or court case have not been completed within 2 years from the date of the charge sheet / filing of the case and such employees is not under suspension his / her case may be reviewed to consider the following :

- ✓ Whether the charges are grave enough to warrant continued denial of promotion and the promotion of the employee will be against public interest.
- ✓ Whether there is no likelihood of the case coming to conclusion in the near future?
- ✓ Whether the delay in finalization of the proceedings whether departmental or in a Court or Law is not directly or indirectly attributable to the employee concerned?

After such consideration of the facts enumerate above, in case it is decided to promote him / her, he / she shall be promoted on an ad hoc basis in the next available vacancy after expiry of 2 years period from the date of charge sheet / filing of court case, if he / she is otherwise eligible for promotion.

In case the departmental proceedings / court case has arisen out of investigation conducted by CBI ad hoc promotion shall be given after taking the CBI's view into account.

14. The stand of the petitioner is that more than 2 years have elapsed after CBI has filed charge sheet against the concerned employee on 29.06.2010 and yet the Bank has not invoked Para-3 of the disqualification clause to give promotion to him.

15. It is argued on behalf of the Respondent that the case pending against the concerned employee is very grave in nature and it is because of this reason his case was not reviewed. It is not disputed by the Respondent that the concerned employee has undergone the process for promotion successfully and the promotion is kept in a sealed cover to be dealt with based on the result of the criminal case. However, this stand of the Respondent is not correct. As seen from Para-3 of the disqualification clause the case of the employee is to be reviewed and the matters enumerated in the Paragraph are to be considered to decide whether promotion is to be given to the employee or not. So far as this Tribunal is concerned no data is available to decide whether the charges against the employee are grave enough to warrant continued denial of promotion or whether the promotion of the employee will be against public interest. So also there is no way to know if there is likelihood of the case coming to a conclusion in the near future or whether it is attributable to the concerned employee. In any case it is very much clear that the criminal case is proceeding at a very low pace since there are several witnesses in the case. Now more than 6 years have elapsed after CBI has filed charge sheet in the case also. So it is incumbent upon the Respondent to review the case of the concerned employee and consider the matters enumerated in Para-3 referred to earlier. It is for the Respondent to take a decision based on the process of review conducted by it. In case the matters enumerated are found in favour of the concerned employee the Respondent is bound to give ad hoc promotion to the concerned employee and retain him on ad hoc promotion until result of the case is pronounced. It is not proper on the part of the Respondent to deny such promotion to the employee if the charge against him is trivial and he has not contributed for the delay in the conduct of the case. Accordingly an award is passed as below:

The Respondent is directed to conduct a review of the case regarding promotion to the concerned employee and take a decision and pass an order based on the result of the review, within a month of publication of the award.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th May, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Union : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	27.02.2010	Promotion Policy Settlement between Indian Bank Management and Federation of India Bank Employees Unions
Ext.W2	14.05.2014	Dispute with ALC, Chennai

Ext.W3	11.12.2014	Counter submitted by Indian Bank Management
Ext.W4	15.12.2014	Rejoinder to the Counter
Ext.W5	26.03.2013	Letter to the Indian Bank Management
Ext.W6	12.03.2014	Letter to the Indian Bank Management

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1434.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 72/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/33/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1434.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 72/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/33/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 11th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 72/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN :

The Deputy General Secretary : 1st Party/Petitioner Union
Indian Bank Employees Union
No. 6, Moore Street
Mannady Corner
Chennai-600001

AND

The Deputy General Manager (HRM) : 2nd Party/Respondent
Indian Bank DO:HRM Department
264, Avvai Shanmugham Salai, Royapettah
Chennai-600014

Appearance :

For the 1st Party/Petitioner Union : Sri J. Suresh, Authorized Representative

For the 2nd Party/Respondent : M/s Aiyar & Dolia, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/33/2015-IR (B.II) dated 22/28.05.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is:

"Whether the action of the Management of Indian Bank, Chennai regarding denial of Special Assistant Post to Sri R. Azhagianambi is justifiable or not? If not so, to what relief the workman is entitled?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 72/2015 and issued notice to both sides. The petitioner has entered appearance through Authorized Representative and the Respondent through counsel and filed claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

As per the Industry Level Bipartite Settlement the post of Special Assistant in the Bank is one among the various special pay carrying post in Clerical Cadre. It carries a Special Pay of Rs. 1180/- per month. The posts of Special Assistant as well as posts of Head Cashier and Single Window Operator are assigned on rotation basis among the clerical staff in the branch and they are paid the Special Pay whenever they are designated as such. The post of Special Assistant used to be referred to candidates who have put in 20 years of service as on the relevant date and applied in response to the circular that is issued. Selection will be based on service seniority among the candidates who applied for the post and are found eligible. For the year 2013 the Respondent Bank had issued circular calling for willingness from the employees for the posts of Special Assistant. Azhagianambi on whose behalf the dispute is raised had applied for the post. However, he was not selected for the post. The Bank management informed that disciplinary proceeding clearance is applicable to the post of Special Assistant also. But this is not correct. The settlement dated 26.02.2010 provides for disciplinary proceeding clearance only in the case of promotions and not for intra-cadre postings. On 05.06.2013 the disciplinary proceedings against Azhagianambi was closed after inflicting the punishment of censure. The Bank called for applications for the posts of Special Assistants in the year 2014 also. However, Azhagianambi did not apply in response to the circular calling applications as he was under the impression that one of the unfilled vacancies for the year 2013 will be released to him. However, this time also he was not given the post of Special Assistant. There is no justification in the Respondent not granting the post of Special Assistant to the concerned employee. An award may be passed directing the Respondent to provide the post of Special Assistant to the concerned employee with retrospective effect from April 2013 with arrears of Special Pay and allowances thereof.

4. The Respondent has filed Counter Statement contending as below:

While considering applications for the post of Special Assistants for the year 2013 the names of Azhagianambi, the concerned employee and another employee were not considered as disciplinary proceedings were pending against them on the relevant date. As per the Bipartite Settlement dated 17.09.1984, in the matter of filling up of posts of Special Assistants in the Clerical Cadre suitability is to be determined by interview of senior employees with weightage for qualification. Thus it is clear that the post of Special Assistant is a promotional cadre and so clearance of departmental proceedings is required before filling up the positions. Azhagianambi was issued with a charge sheet on 16.05.2012 for certain lapses and commissions and he was imposed the punishment of censure by order dated 05.06.2013 by the Disciplinary Authority. The post of Special Assistant is vested with the passing power of cash instruments upto Rs. 35,000/- and clearing and transfer cheques, vouchers, etc. upto and including Rs. 1,50,000/- and thereby carries higher responsibilities. In the year 2014 Azhagianambi did not choose to respond to the circular calling application for the post of Special Assistant. If the concerned employee chooses to apply for the post of Special Assistant his case will be considered subject to his fulfilling other requirements.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of documents marked as Ext.W1 to Ext.W9. No oral evidence was adduced by the parties. The Respondent did not produce any documents also on its side.

7. **The points for consideration are** :

(i) Whether the Respondent is justified in denying the post of Special Assistant to Azhagianambi?

(ii) What, if any, is the relief to which the employee is entitled?

The Points

8. Azhagianambi on whose behalf the dispute is raised is working as Clerk in the Respondent Bank. According to the petitioner, Azhagianambi was denied the post of Special Assistant unjustly. Though he had applied for the post in response to the circular calling applications for the year 2013 his name is not considered for the post alongwith another.

It is stated that in 2013 there were 150 posts of Special Assistants but only 148 were filled up and yet Azhagianambi and another were not considered for the post.

9. The case of the Respondent is that Azhagianambi was not considered for the post though he had applied for the post in the year 2013 as disciplinary proceedings has been pending against him. It is further stated by the Respondent that in the year 2014 when application was called for he did not apply for the post even though disciplinary proceedings has been over and so there was no reason to consider him for the post in this year also.

10. The case of the Respondent that the post of Special Assistant is a promotion post is not correct. Employees from the post of Clerical Cadre used to be deputed on rotation to the post of Special Assistant, post of Single Window Operator, etc. Such posts carried a special pay also. The Bipartite Settlement describes it as "Special Pay carrying posts in Clerical Cadre". So definitely it cannot be considered as a promotional post.

11. The next aspect to be considered is whether the contention of the Respondent that clearance of the disciplinary proceedings is required to be considered for the post of Special Assistant. The common terms and conditions providing for disqualification clause in the Memorandum of Settlement dated 26.02.2010 and marked as Ext.W1 refer to the condition of disposal of disciplinary proceedings only for cases of promotion. Only in the case of promotion the procedure of keeping the promotion in a sealed cover and considering it after disposal of the disciplinary proceedings is referred to. This exercise is not required so far as the post of Special Assistant which is within the Clerical Cadre itself is concerned. So it was not proper on the part of Respondent in not considering the request of Azhagianambi to the post of Speical Assistant in response to his application in the year 2013. In 2013 itself, by order dated 05.06.2013 the disciplinary proceedings against Azhagianambi seems to have been closed after imposing the punishment of censure against him. So it is clear that the misconduct committed by Azhagianambi was only minor in nature.

12. According to the petitioner, Azhagianambi did not apply for the post in the year 2014 under the impression that his application given in 2013 would be considered. However, there was no reason for this since persons are selected to the post of Special Assistant based on the application called for every year.

13. Though the post of Special Assistant is a post in the Clerical Cadre itself, it is not necessary that all the persons who had applied for the post are allowed to act as Special Assistant. The Bipartite Settlement dated 17.09.1984 states that in the matter of filling up the posts of Special Assistants in the Clerical Cadre suitability is to be determined in member banks having the posts of Special Assistant by interview of senior employees with weightage for qualification. So it is clear that a selection process is involved in the selection to the post of Special Assistants.

14. The Respondent has no case that Azhagianambi was not otherwise qualified for the post. The only reason for not considering his application in 2013 is that a disciplinary proceeding has been pending against him. The proceedings are already disposed. So the disqualification which existed according to the Respondent is not there now. So there is no hindrance for the Respondent in considering the employee for the post.

15. The relief claimed in the Claim Statement is that the post of Special Assistant should be provided to the employee with retrospective effect and arrears of Special Pay should also be given to him. However, such a prayer could not be allowed. The employee could not be paid for the work he has not done especially because it is only an allowance in case he had worked in the post. However, the Respondent can consider the employee for the post of Special Assistant as if his application is pending, without seeking another application from him.

Accordingly, the Respondent is directed to consider Azhagianambi, the concerned employee for the post of Special Assistant, within a month of publication of the award.

The reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th May, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner Unions : None

For the 2nd Party/Management : None

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ext.W1	27.02.2010	Promotion Policy Settlement between Indian Bank Management and Federation of Indian Bank Employees Unions
Ext.W2	14.05.2014	Dispute with ALC, Chennai

Ext.W3	22.08.2014	Counter submitted by Indian Bank Management
Ext.W4	10.12.2014	Rejoinder to the counter
Ext.W5	16.04.2013	Letter to the Indian Bank Management
Ext.W6	10.06.2013	Letter to the Indian Bank Management
Ext.W7	17.12.2012	CO:HRM Circular
Ext.W8	16.05.2012	Charge Sheet issued to Mr. R. Azhagianambi
Ext.W9	05.03.2013	Punishment Order

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1435.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 99/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/36/2015-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1435.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 99/2015**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/36/2015-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 11th May, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 99/2015

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Bank and their workman)

BETWEEN :

The Deputy General Secretary
Indian Bank Employees Union
No. 6, Moore Street
Mannady Corner
Chennai-600001 : 1st Party/Petitioner Union

AND

The Deputy General Manager (HRM)
Indian Bank DO:HRM Department
264, Avvai Shanmugham Salai, Royapettah
Chennai-600014 : 2nd Party/Respondent

Appearance :

For the 1st Party/Petitioner Union : Sri J. Thomas Jayaprabakaran, Authorized Representative

For the 2nd Party/Respondent : M/s Aiyar & Dolia, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/36/2015-IR (B.II) dated 19.06.2016 and Corrigendum dated 20.10.2015 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"*Whether the action of the Management of Indian Bank, Chennai regarding imposition of voluntary cessation on Ms. Shanti Radhakrishnan, Clerk and denial of pensioner benefits to her is justifiable or not? If not, to what relief the workman is entitled to?*"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 99/2015 and issued notices to both sides. The petitioner appeared through Authorized Representative and the Respondent through counsel and and filed claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement.

3. The averments in the Claim Statement filed by the petitioner in brief are these:

The dispute is raised by the Petitioner Union on behalf of Shanti Radhakrishnan who was Clerk in Nandanam Branch of the Respondent Bank. Ms. Shanti Radhakrishnan joined the services of the Bank as Clerk on 12.06.1982. The Respondent Bank had introduced an extraordinary leave scheme for its employees. Shanti Radhakrishnan had applied for three years extraordinary leave from 31.10.2007 and this was sanctioned by the Respondent Bank. While she was on leave the Bank had come out with a scheme offering its serving employees as well as past employees to join the Pension Scheme. Shanti Radhakrishnan had complied with the terms for joining the Pension Scheme. Shanti Radhakrishnan was not in a position to report for duty on expiry of the leave on 31.10.2010 due to her ill-health. So she applied for extension of leave for three months upto 31.12.2010. This request was rejected by the Respondent. So Shanti Radhakrishnan submitted an application to the Bank on 27.12.2010 for voluntary retirement from the service of the Bank. This request was also turned down by the Respondent. The Respondent then issued notice to Shanti Radhakrishnan on 24.03.2011 directing her to report for duty within 30 days. Thereafter another notice was sent and later she was removed from service by letter dated 25.06.2011, invoking Clause-33 of the Bipartite Settlement. The Appeal filed by her requesting to modify the punishment as Compulsory Retirement was rejected by the Appellate Authority. The dispute is raised accordingly. There was no reason for the Respondent to reject the voluntary retirement application of Shanti Radhakrishnan. The Respondent has adopted a vindictive attitude to the concerned employee. Other employees who were in similar position were inflicted with the punishment of Compulsory Retirement making them eligible for terminal benefits. An order may be passed holding that the action of the Management in denying pension benefits to Smt. Shanti Radhakrishnan by rejecting her application for voluntary retirement and terminating her service under Clause-33 of the Bipartite Settlement is illegal and also directing the Respondent to extend pensionery benefits to her accepting the voluntary retirement application submitted by her and allowing voluntary retirement with retrospective effect from 27.1.2010 and disbursing the arrears of pension to her.

4. The Respondent has filed Counter Statement contending as below:

Smt. Shanti Radhakrishnan joined the service of the Bank as Clerk on 12.06.1982. She went on extraordinary leave on 31.10.2007. The maximum period of leave that can be availed under the scheme for extraordinary leave is only three years. The employee proceeding on leave under the scheme has to compulsorily join duty on completion of three years. Shanti Radhakrishnan who proceeded on leave on 31.10.2007 should have joined duty on or before 30.10.2010. While on leave Shanti Radhakrishnan had applied for joining the Pension Scheme. Shanti Radhakrishnan did not join the service of the Bank even after expiry of the period of leave. She submitted an application on 27.12.2010 seeking voluntary retirement from the service of the Bank while requesting for extension of leave. This request was rejected. She was given first notice on 24.03.2011 asking to report for duty within 30 days. As she failed to report for duty a second notice was issued on 03.05.2011. As there was no correspondence from her even after this the Bank invoked Clause-33 of the Bipartite Settlement and ordered voluntary cessation of her service on 25.06.2011. There is no provision for payment of pension in the case of voluntary cessation. As per Regulation-22(1)(A) of the Pension Regulations, resignation, dismissal, removal or termination of the employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionery benefits. The Petitioner Union who is the signatory to the Settlement has no right to raise the dispute. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the averments in the Counter Statement and reiterating the case in the Claim Statement.

6. The evidence in the case consists of documents marked as Ext.W1 to Ext.W11 and Exts.M1 to Ext.M3. No oral evidence was adduced by either side.

7. **The points for consideration are**:

(i) Whether the action of the Respondent in imposition of voluntary cessation on Ms. Shanti Radhakrishnan is justifiable or not?

(ii) What, if any, is the relief to which the employee is entitled?

The Points

8. Shanti Radhakrishnan on whose behalf the dispute is raised by the Petitioner Union has been working as Clerk of the Respondent Bank. On the basis of the extraordinary leave scheme of the Respondent for its employees Shanti Radhakrishnan applied for 3 years extraordinary leave from 31.10.2007 and this was sanctioned. She should have joined duty on 31.10.2010 on expiry of the leave. However, rather than joining duty she applied for extension of leave. But the Respondent refused to extend the leave on the ground that there is no provision for grant of extraordinary leave for a period beyond 3 years. The Bank asked her to join duty. However, she failed to join duty. The Bank removed her from service invoking Clause-33 of the Bipartite Settlement for voluntary cessation from service. The relief claimed in the Claim Statement is that Shanti Radhakrishnan should be extended pension benefits by accepting the request for voluntary retirement made by her.

9. The stand of the Respondent is that by failing to join duty Shanti Radhakrishnan had ceased to be in service and she was removed from service and she is not entitled to pensionery benefits as she has forfeited her claim for pension.

10. It is not in dispute that the petitioner has failed to join duty even after expiry of the period of extraordinary leave of 3 years that was granted to her. Ext.M1 is the copy of the scheme for extraordinary leave. Clause-D of the scheme states that the period of extraordinary leave shall be for a minimum period of one year and for a maximum period of three years. It is further clarified that the maximum period of leave that can be availed under the scheme is not more than three years during the entire service of an employee. Since Shanti Radhkrishnan has failed to join duty even after the expiry of the period of her leave Ext.M2 notice dated 24.03.2011 has been issued to her by the Bank stating that she has been absenting herself from duty unauthorizedly since 31.10.2010, the date of expiry of the sanctioned leave. By the notice she was asked to report for duty within 30 days of the notice in terms of Clause-33 of the Bipartite Settlement. Even after this she has failed to join duty and one more notice dated 03.05.2011 was issued to her by the Bank, again asking her join duty within 30 days. Still she failed to comply with the direction and it was thereafter the Bank has issued order dated 25.06.2011 informing her that in terms of Clause-33 of 8th Bipartite Settlement she has voluntarily left the services of the Bank and vacated employment in the Bank from the date of the letter.

11. There is no case for the petitioner that the action of the Respondent in treating the concerned employee as ceased to have been in service is not proper. Even in Ext.M1 the request made by the employee, she has not stated anything about the order of the Respondent treating her to have ceased to be in service. In Ext.W1 she has asked only for pension on the basis that she has opted for pension scheme. Since her request for pension was refused on the ground that she is not eligible for pension as she has voluntarily ceased to be in service, she sent Ext.W2 letter to the Bank on 14.09.2012 requesting that the order of voluntary cessation of service imposed on her is to be modified and any other punishment should be imposed on her so that she is able to draw pension from the Bank. Then there is one more letter i.e. Ext.W3 which is stated to be an appeal against the order of "punishment of cessation of service". In this she has requested that the order should be modified as Compulsory Retirement instead of Voluntary Cessation from Service so that she will be eligible to draw pension as per the Pension Regulations. In the meanwhile, on 27.12.2010 the concerned employee seems to have filed an application for voluntary retirement also. Though a copy of the application is not seen produced, Ext.W5 the letter by the HRM Department of the Respondent shows that such an application has been filed. It is referred to in the Counter Statement also.

12. The argument that is advanced on behalf of the concerned employee is that she was eligible for pension even if she has failed to report for duty after expiry of the leave. In is argued on her behalf that she has already joined the Pension Scheme and so she was eligible for pension. No doubt, the concerned employee has joined the Pension Scheme while she was still under extraordinary leave.

13. However, merely because the petitioner has joined the Pension Scheme it will not make her eligible for the benefit of pension. The employee has refused to join the service of the Bank in spite of notices issued to her and she has accepted the order of voluntary cession from service also. She has challenged it only after her request for pension was refused. Having been unauthorizedly absent and her absence having been treated as voluntary cessation from service

will be employee be entitled to pension as per the provisions of the Bipartite Settlement? Clause-22 (i) of the Pension Regulations states that resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionery benefits. As seen from Clause-22 (2) an interruption in the service of the Bank employee entails forfeiture of his past service except in the case of authorized leave of absence, suspension where it is immediately followed by reinstatement, transfer to a non-qualifying service in the establishment under the control of the government or bank if such transfer has been ordered by a competent authority and joining time while on transfer from one post to another. Thus, it is clear that even if there is no specific reference to voluntary cessation from service it is more drastic in nature than resignation from service and the period of absence in between is an interruption in service entailing forfeiture of service. So in view of the very Bipartite Settlement entered into by the Petitioner Union and the Respondent Bank the concerned employee would not be entitled to the benefit of pension having, voluntarily ceased to be in service.

In view of my above discussion the petitioner is not entitled to any relief. The reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 11th May, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : None

For the 2nd Party/Management : None

Documents Marked:

On the Petitioner's side

Ex.No.	Date	Description
Ext.W1	20.07.2011	Letter to General Manager (HRM)
Ext.W2	14.09.2012	Letter to General Manager (HRM)
Ext.W3	18.05.2012	Appeal against the punishment
Ext.W4	24.03.2011	Letter from Zonal Office, Chennai (South)
Ext.W5	25.08.2012	Letter from CO/HRM Department
Ext.W6	25.06.2011	Letter from Zonal Office, Chennai (South)
Ext.W7	14.01.2011	Letter from Zonal Office, Chennai (South)
Ext.W8	08.12.2010	Letter from CO/HRM Department
Ext.W9	05.03.2014	Dispute raised by the petitioner
Ext.W10	26.09.2014	Counter reply by the Respondent Bank
Ext.W11	03.12.2014	Rejoinder to the counter reply.

On the Management's side

Ex.No.	Date	Description
Ext.M1	-	EOL Scheme dated 08.01.2007
Ext.M2	-	Notices dated 24.03.2011, 03.05.2011 and 25.06.2011
Ext.M3	-	Regarding 22(1) of the Pension Regulations – Relevant Extract.

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1436.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार इंडियन ओवरसीज बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ सं. 112/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/73/2014-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1436.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 112/2014**)** of the Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12012/73/2014-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 15th June, 2016

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 112/2014

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Indian Overseas Bank and their workman)

BETWEEN :

Sri M. Sathis Kumar : 1st Party/Petitioner

AND

The Chief Manager : 2nd Party/Respondent
Indian Overseas Bank, Regional Office
No. 65-A, East Car Street
Tuticorin

Appearance :

For the 1st Party/Petitioner : M/s C.R. Chandrasekaran, Advocates

For the 2nd Party/Respondent : M/s NGR Prasad, Advocates

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-12012/73/2014-IR (B.II) dated 25.11.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

"Whether the termination from service in respect of Sri Sathis Kumar by the Management of Indian Overseas Bank is legal and justified? What relief the petitioner is entitled to?"

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 112/2014 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed Claim and Counter Statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner has joined Oppillan Branch of the Respondent as temporary Messenger on 05.08.2005 and had worked there upto 09.02.2010 continuously without any break. Then he was posted to Kamudi Branch and had worked there from 10.02.2010 to 27.09.2011 continuously. He was again posted to Oppillan Branch and worked there from 28.09.2011 to 28.06.2012. Then the Respondent had taken the petitioner as Messenger in regular scale of pay with effect from 29.06.2012 by order dated 22.06.2012. The petitioner was to report for duty around 0930 AM and had to remain till the premises was closed for the day. The petitioner was to go for local delivery of letters and cheques, to the Post Office, for payment of electricity bills, etc. as instructed by the Manager. He was doing other duties also as any other subordinate staff. At Kamudi Branch the petitioner was additionally attending to Clerical duties like making entries in various registers. By order dated 02.05.2014 the Respondent Bank terminated the petitioner from service without giving any notice stating that on verification of the records of Oppillan Branch they have found that the petitioner had never worked at Oppillan Branch as Temporary Messenger. The Oppillan Branch had rightly issued a certificate certifying that the petitioner was engaged as Messenger in the Branch and was continuously engaged for more than 240 days preceding 15.11.2010. Kamudi Branch also has issued a certificate to this effect. It was on the basis

of these two certificates the petitioner was interviewed and was appointed as Messenger. By order dated 22.06.2012 the petitioner was on probation for a period of 6 months and was confirmed in the service of the Bank with effect from 29.12.2012. The Respondent had terminated the petitioner from service on the unfounded allegation that he did not work as Temporary Messenger in Oppillan or Kamudi Branch of the Respondent. The petitioner had raised the dispute accordingly. The petitioner is entitled to be reinstated in service. An order may be passed directing the Respondent to reinstate the petitioner in service.

4. The Respondent has filed Counter Statement contending as below:

A settlement was entered into between the recognized Trade Union and the Second Respondent on 17.02.2011 under Section-12(3) of the ID Act, for absorption of Temporary Messengers/Sweepers as one-time absorption, subject to satisfaction of certain educational qualification and prior service conditions. On the basis of the settlement the Respondent issued circulars to all the Regional Offices. The Regional Offices were instructed to collect declaration in the prescribed form from the eligible Temporary Messengers/Sweepers. The petitioner submitted application form stating that he is eligible to be appointed to the post of Messenger having worked in Oppillan and Kamudi Branch for more than 240 days in a calendar year. The petitioner was selected for appointment of messenger and he was informed of this by order dated 26.06.2012. On subsequent verification of the branch records it was found that the petitioner had not worked at the branches as Temporary Messenger. He had made a false declaration regarding his temporary service. The petitioner has not complied with the essential condition of working period as provided in the settlement dated 17.02.2011. Before appointment the petitioner had given an undertaking that if his declaration is found false he is liable to be terminated from the service of the Bank. The application given by the petitioner for absorption is tainted with fraud. The absorption of the petitioner in service was not lawful at the very inception. So he deserved to be terminated from service. Natural justice cannot be afforded to a person who has committed fraud and misrepresentation in respect of his working period in his application. There was no necessity to give opportunity to the petitioner to defend himself, according to Chapter-17 of the Bipartite Settlement dated 14.12.1996. Termination of the petitioner from service is fully justified. He is not entitled to any relief. The dispute is liable to be dismissed.

5. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W20, Ext.M1 to Ext.M14 and C1 to C7.

6. **The points for consideration are**:

(i) Whether the action of the Respondent in terminating the petitioner from service is justified?

(ii) What, if any is the relief to which the petitioner is entitled?

The Points

7. Ext.W10 is the settlement that was entered into by the Respondent Bank and the recognized Trade Union on 17.02.2011 regarding absorption of Temporary Messengers/Sweepers as one-time measure. As per this settlement opportunity for absorption was given to Casual/Temporary Messengers/Sweepers who have worked for more than 5 years in any of the branches / offices in permanent vacancies and completed 240 or more days continuously in a calendar year as on 15.11.2010 and are still working on the date of the agreement. Such persons were to be absorbed in Phase-I before 30.06.2011. Under Phase-II those who have worked for more than 3 years but less than 5 years and completed 240 or more days continuously in a calendar year as on 15.11.2010 were to be absorbed. So also under Phase-III those who have completed 240 or more days continuously in a calendar year and had been engaged for less than 3 years as on 15.11.2010 and were still working were to be absorbed. The petitioner had applied for absorption under Phase-I of the settlement and had been appointed as regular Messenger by the Respondent and was posted at Oppillan Branch by order dated 26.06.2012. According to the petitioner he had worked at Oppillan Branch from 05.08.2005 to 09.02.2010, then at Kamudi Branch from 10.02.2010 to 27.09.2011 and again at Oppillan Branch from 28.09.2011 during which time he was given regular appointment. The petitioner had joined Oppillan Branch as regular Messenger, had completed his probation period of 6 months and was confirmed in service. However, by order dated 02.05.2014 the Bank terminated him from service. They have taken the stand that on verification of the records of Oppillan and Kamudi Branch it was revealed that the petitioner had not worked in those branches during the relevant period to make him eligible to be absorbed as per the terms of Ext.M10, the settlement dated 17.02.2011. According to the Respondent, the petitioner was absorbed on the basis of a declaration given by him that he had worked as Temporary Messenger. At the time of appointment he had given undertaking that in case his declaration regarding his temporary service and other details are found incorrect he is liable to be terminated from service. The Bank, acting on the undertaking had terminated the petitioner from service, having found that the declaration furnished by him is false.

8. The Respondent had not conducted any domestic enquiry before terminating the petitioner from service. Its stand is that the very appointment of the petitioner is tainted by fraud and misrepresentation and the absorption was not

lawful at the inception itself and there was no necessity to conduct a formal enquiry before terminating the petitioner from service.

9. The initial question to be considered is whether the petitioner had actually been in the temporary service of the Respondent to justify his absorption as regular Messenger in the rolls of the Respondent. The petitioner had given evidence as WW1 to substantiate his case. He has reiterated his case in the Claim Statement, in his Proof Affidavit in lieu of Chief Examination, in his attempt to justify his stand. The petitioner had also marked Ext.W1 to Ext.W20 to prove his case. Out of the documents produced by him the documents relevant on the aspect of temporary service are Ext.W3 and Ext.W5 and also Ext.W17, Ext.W18 and Ext.W20. Ext.W3 and Ext.W5 can be dealt with while discussing the evidence of MW1 as these are the certificates issued by MW1 in his capacity as the Branch Manager and by another Branch Manager respectively. Ext.W17 and Ext.W18 are the computer printout of GL transactions produced by the petitioner to show that he had been working in the Bank. However, these are printouts for the period from 2011 only. As per Ext.M10 a person a temporary employees who seeks absorption should have been in service as on 15.11.2010. According to the Respondent the petitioner worked on temporary assignment only after this relevant date. Ext.W17 and Ext.W18 do not serve any purpose so far as the petitioner is concerned for the reason that these are subsequent to the cut-off date given in Ext.M10. Of course, payment is seen made to the petitioner on certain dates as per Ext.W17 and Ext.W18. There are also the vouchers marked as Ext.W20 series showing the petitioner as Temporary Messenger. But all these vouchers are also after the cut-off date and will not support the case of the petitioner. If the petitioner was able to produce such vouchers and even able to get computer printout of GL transactions of the Bank for the period from 2011 onwards it would not have been difficult for him to get a computer printouts of previous transactions also. So also the voucher for the relevant period also should have been available with him or could have been made available by him if he had actually worked prior to the cut-off date mentioned in Ext.M10. As it is, apart from the oral evidence of the petitioner and Exts.W3 and W5 certificates no other evidence is available on the side of the petitioner to establish the case that he had worked in Oppillan and Kamudi branches of the Respondent Bank for more than 240 days prior to the cut-off date i.e. 15.11.2010.

10. Ext.W3 is the certificate containing the signature of MW1 who was the Manager of Kamuthi Branch. The certificate states that the petitioner has been engaged as Messenger in his Branch since 10.02.2010 and he had been engaged continuously for 240 days or more preceding 15.11.2010 and continued to be engaged as such on the date when the certificate was given i.e. on 06.04.2011. Ext.W6 is the certificate of such kind given by the Manager of Oppillan Branch stating that the petitioner was engaged in the Branch since 05.08.2005, had been continuously engaged for more than 240 days preceding 15.11.2010 and continued to be engaged as such on 06.09.2011, the date on which the certificate was given. MW1 has stated in his Proof Affidavit that he had issued Ext.W3 certificate to the petitioner under the influence of his father, Sri Muthuraj who was the Regional Committee Member of a Trade Union and Thomas Balan who was additional General Secretary of Tuticorin Region of the Union. He has further stated that the petitioner had not worked as Temporary Messenger as detailed in the certificate issued by him. He had further stated that even after the cut-off date given in Ext.M10 the petitioner has not rendered service as Temporary Messenger but did sweeping work only. As seen from his evidence, on receipt of complaints regarding malpractice in absorption, the Bank had investigated the matter and found out that what is stated in the certificates are false. The CBI also had registered cases against the Office Bearers of the Trade Union including Thomas Balan and father of the petitioner. MW1 himself has given a confession statement and this was marked as Ext.M5. He has stated in this that the certificate was wrongly given by him as instructed by the Office Bearers of the Union. He has stated in his cross-examination that though action was not initiated against him for issuing false certificate to the petitioner charge sheet was issued to him on a similar issue and enquiry in that matter is still going on.

11. The case of the petitioner is that the certificates were issued by the respective Branch Managers only on the basis of his temporary service. The petitioner has sought production of documents by the Bank to prove his case that he had worked in Oppillan and Kamudi branches as Temporary Messenger. The Bank had produced Ext.C1 to Ext.C7 at the instance of the petitioner. These documents were marked by the petitioner during cross-examination of MW1. Ext.C7 is the GL Statement regarding other sundry charges for the period from 10.02.2010 to 06.04.2011 in respect of Kamudi Branch. In this there are two entries showing payment to the petitioner. On 30.04.2010 Rs. 1,800/- is seen paid to the petitioner. On 31.01.2011 another Rs. 2,200/- is seen paid to him. The case of the petitioner is that he had worked in Kamudi Branch from 10.02.2010 to 27.09.2011. As requested by the petitioner the Respondent has produced the entire GL Transaction Statement of Kamudi Branch for the period starting from 10.02.2010. As stated, the cut-off date to become eligible for absorption is 15.11.2010. The only entry showing that the petitioner had worked at Kamudi Branch before 15.11.2010 is the entry made on 30.,04.2010 for payment of Rs. 1,800/-. MW1 has admitted that this is the wage paid for 18 days which would show that the petitioner must have been at Kamudi Branch for 18 days prior to the entry referred to. The suggestion that was made during cross-examination of MW1 is that other payments also were made to the petitioner without referring to his name. Each transaction is seen correctly entered in the GL Transaction Statement in respect of Kamudi Branch. According to MW1, one Jayakodi who was the Sweeper at the time was attending to Messenger work also. The GL Statements of the Branch reveals payment made to Jayakodi frequently also.

The name of the petitioner alone could not have been omitted if payment was made to him. There is nothing in the GL Transaction Statement in respect of Kamudi Branch to show that the petitioner had been continuously working in the Branch from 10.02.2010 to 15.11.2010. The GL Transaction Statements in respect of Oppillan Branch from 06.02.2009 also are available in Ext.C.7. According to them the details of the transaction prior to the period are not available. If the petitioner is to become eligible for absorption he should have continuously worked for more than 240 days in a calendar year prior to 15.11.2010. So even with the details of the transactions from 06.02.2009 it could be found out if the petitioner had worked for more than 240 days with the Respondent prior to the cut-off date. On going through the transactions of Oppillan Branch I am not able to find out the details of any payment made to the petitioner. At the same time payments are seen made to others towards cleaning and scavenger charges. It is not pointed out to me that the name of the petitioner appears anywhere in the document in respect of Oppillan branch. I had been going through the document but I was not able to find out any such entry also. Thus the GL Transaction Statements produced by the Respondent at the instance of the petitioner would show that the petitioner had not worked for more than 240 days in any of the two branches of the Respondent Bank as claimed by him. No other documents are produced by the petitioner also.

12. The documents other than Ext.C.7 produced by the Respondent at the instance of the petitioner were marked as Ext.C1 to Ext.C6 through MW1. These are the dispatch register, account opening register, cheque return register, local cheque register, etc. MW1 was asked about the handwriting in these documents but he was not able to identify the hand by which those were written. There is nothing unnatural in it for the reason that the Branch Manager could not be expected to remember the handwriting of all his subordinate staff in all the branches he had worked. At the time of his examination MW1 was not in the branch at all. The attempt on behalf of the petitioner seems to have been to make out that these documents contain the handwriting of the petitioner also. This attempt has failed in the absence of identification of the handwriting by the witness. There is nothing to show that the petitioner is connected to these documents in any manner. Thus the available documents would not show that the petitioner had worked with the Respondent as Temporary Messenger for than 240 days continuously prior to 15.11.2010 and he continued to work with the Respondent on that date. On the other hand as per the documents there is no data to show that the petitioner had worked in the Bank as claimed by him, for the relevant period.

13. One contention that has been raised by the petitioner in the Claim Statement is that he was terminated from service without any notice and without conducting any enquiry. The petitioner seems to have been terminated from service without notice, but paying one month's salary in lieu of notice. The Respondent has contended that the petitioner has given undertaking at the time of appointment that he is liable to be terminated from service in case his declaration are found false and so there was no necessity to give opportunity to him to defend himself. Even though enquiry was not conducted by the Respondent, there was sufficient opportunity for the petitioner before this Tribunal to establish that he was eligible for absorption as per terms of Ext.M10 in which case he would have been entitled to an order of reinstatement. However, as already stated, he was not able to establish his case here. On the other hand the Respondent has sufficiently established that his case is false. So the petitioner is not entitled to any relief.

In view of the discussion above the reference is answered against the petitioner. An award is passed accordingly.

(Dictated to the PA transcribed and typed by him, corrected and pronounced by me in the open court on this day the 15th June, 2016)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/Petitioner : WW1, Sri M. Sathis Kumar

For the 2nd Party/Respondent : MW1, Sri A. Sampath

Documents Marked:

On the Petitioner's side

Ext.No.	Date	Description
Ext.W1	14.12.1996	Extracts from Settlement
Ext.W2	05.04.2011	Oppillan Branch to Kamudi branch certifying First Party having working at Oppillan
Ext.W3	06.04.2011	Kamudi Branch Certificate
Ext.W4	06.04.2011	Letter of First Party in Annexure-A to Central Office of the Second Party certified by the Kamudi Branch

Ext.W5	06.09.2011	Oppillan Branch Certificate
Ext.W6	18.05.2012	Advice for interview
Ext.W7	22.06.2012	Appointment Order
Ext.W8	27.06.2012	Order posting to Oppillan Branch
Ext.W9	17.08.2013	Confirmation w.e.f. 29.12.2012
Ext.W10	02.05.2014	Termination Order
Ext.W11	16.05.2014	dispute raised before the ALC-cum-Conciliation Officer
Ext.W12	14.07.2014	Reply of the Second Party
Ext.W13	15.07.2014	Rejoinder of the First Party
Ext.W14	12.08.2014	Rejoinder of Second Party to rejoinder of the First Party
Ext.W15	28.08.2014	Failure of the Conciliation Report
Ext.W16	25.11.2014	Reference of Dispute to the Hon'ble CGIT-cum-LC, Chennai
Ext.W17	Sept.2011 To June 2012	Computer print-out of GL Purpose Transactions in [7490] relating to "Other Sundry Charges"
Ext.W18	03.12.2011 To 23.06.2012	Computer print-out of GL Purpose Transactions in [7451] relating to "Wages-Temporary Messengers"
Ext.W19	01.10.2011 To 23.06.2012	A list prepared manually from Item 1 to 3 hereinabove to prove that the petitioner worked on all days from Sept. 2011 to June 2012
Ext.W20	Various Dates	Some available vouchers relating to payments made to the petitioner

On the Management's side

Ext.No.	**Date**	**Description**
Ext.M1	23.03.2011	Bank circular regarding absorption
Ext.M2	06.04.2011	Declaration form in the form of Annexure-A
Ext.M3	22.06.2012	Appointment Order
Ext.M4	-	Application form
Ext.M5	09.12.2013	Confession statement by the Branch Manager who issued false service certificate
Ext.M6	11.04.2014	Confirmation by the existing Branch Manager,
Ext.M7	15.04.2014	Confirmation by the present Branch Manager, Kamudi
Ext.M8	15.04.2014	Investigation Report
Ext.M9	02.05.2014	Termination Order
Ext.M10	17.02.2011	Memorandum of Settlement arrived at under Section-12(3) of Industrial Dispute Act, 1947
Ext.M11	28.04.2014	Admission letter given by Mr. A. Sampath, the then Manager of Kamudi Branch
Ext.M12	29.10.2013	First Information Report in RC MA 1 2013 A 0044
Ext.M13	02.08.2014	News of job scam issued various Newspapers – A Serial
Ext.M14	02.05.2014	Demand Draft in the name of First Party alongwith his statement of account.

नई दिल्ली, 11 जुलाई, 2016

का.आ. 1437.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सिंडिकेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय नं. 1, चंडीगढ़ के पंचाट (संदर्भ सं. 121/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 11.07.2016 को प्राप्त हुआ था।

[सं. एल-12011/74/2013-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 11th July, 2016

S.O. 1437.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 121/2013**)** of the Central Government Industrial Tribunal-cum-Labour Court-I, Chandigarh as shown in the Annexure, in the Industrial Dispute between the management of Syndicate Bank and their workmen, received by the Central Government on 11.07.2016.

[No. L-12011/74/2013-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID No 121 of 2013

Reference No. L-12011/74/2013-IR (B-II) dated 16.11.2013.

Shri Jitender Kumar, Ex- Temporary Attender c/o the State Secretary,
Syndicate Bank Employees' Union (NZ) States Committee. Rohtak …Workman

Versus

1. The Deputy General Manager,Syndicate Bank, Regional Office,
48 Bhadana Bhawan, Neelam Bata Road, Faridabad-(Haryana) …Respondent

Appearances :

For the Workman : Shri R.P.Rana Advocate.

For the Management : Shri Randeep Singh Advocate.

AWARD

Passed on: - 06 -06-2016

Government of India Ministry of Labour vide notification No**.** . L-12011/74/2013/IR (B-II) dated 16.11.2013; the Central Govt. has referred the following dispute to this Tribunal for adjudication:

> "Whether the action of the Deputy General Manager, Syndicate Bank, Regional Office, Faridabad in serving a Show cause Notice to Sri Jitender Kumar, Ex-Temporary Attender vide reference No.0656/FRO/PD/TRJ/12 dated 14.06.2012 for his apprehensing termination alleging him that he had concealed the Education qualification after a gap of two years is just fair and legal? If not, to what relief the workman is entitled to and from which dated?"

2. Brief facts of the case according to the workman are that he got his name registered in employment exchange for the job with educational qualification of matriculation vide regd. No.7/04 dated 6-8-2004 regd. SL no.2902/04 and he passed 10+2 examination in 2006 and approached the employment exchange for addition of educational qualification in their record, but the authorities avoided him and said that they will add his higher education only after graduation only and his 10+2 qualification could not be added in the employment exchange. It is further pleaded that the management called the candidate from the employment exchange to prepare a panel of attendar for Faridabad Distt. And the name of the workman was sent by the employment exchange to the management and workman was called for interview in 2007 and workman was selected and empanelled and subsequently he was given appointment as attendar in regional office Faridabad on 13-9-2010. The workman submitted that he was neither asked about his qualification nor he was asked to submit any certificate of qualification during interview and workman since then doing his job with sincerity and honesty. The workman further submitted that on 14-6-2012 management served show cause notice upon the workman alleging that workman had concealed the educational qualification as on the date of applying for panel of temporary attended and there was a discrepancy in educational qualification in comparison with detail submitted at the time of interview and Deputy General Manager asked him vide show cause notice dated 14-6-12 as to why his services should not be terminated for concealing the facts. The workman submitted that he never concealed his educational

qualification as his name was forwarded by the employment exchange and during the interview he was never asked about his educational qualification. The show-cause notice is after thought and unlawful as the workman was appointed by following all the recruitment rules of the bank. It is further submitted that workman himself disclosed his qualification when he was asked by the bank to furnish the details as per bio-data. The workman never gave any false information. The workman had completed more than 240 days in a calendar year from 13-9-2010 and the show-cause notice is mockery and illegal as possessing of higher qualification cannot be a disqualification and the workman already given undertaking to the management that on the basis of higher qualification he will not claim any promotion or any other benefits of service. It is further pleaded by the workman that in a similar matter another employee Mr. Subhash Chand of the management was charge sheeted for mentioning his qualification as 8th pass and subsequently it was found that he was matric. He was removed from service but Appellate Authority reinstated him on the same position. It is prayed by the workman that show-cause notice dated 14-6-2012 being illegal and bad and may be quashed.

3. The management filed written statement. Preliminary objection has been taken that petition is not maintainable being premature as the management has not passed any order of termination. The show-cause notice regarding explanation of the workman about his educational qualification and workman filed reply which is still pending and the present dispute is liable to be dismissed as the workman deliberately concealed his educational qualification being 10+2 passed while filling up the application form for the post of temporary attendant. The management in order to fill up the casual and leave vacancies in the cadre of attendar required to maintain district wise penal of temporary attendar and from this panel the list of candidate provided by the employment exchange to the management. The management placed an indent with concerned employment exchange prescribed the educational qualification required for the post as per the bank policy. The educational qualification has been fixed as 8th standard passed and should not have passed 12th standard. In view of the above indent the name of the workman was one of the candidate forwarded by the employment exchange Faridabad. The workman was separated for the interview and workman during interview submitted employment exchange card No. 07/04 dated 6-8-2004 as per which his qualification was 10th pass and the workman was empanelled as temporary attendar and entrusted with duty at regional office Faridabad. Later on it come to the notice of the management that workman has passed 12th examination in the year 2006 . From this it is clear that workman has passed 12th examination in the year 2006 whereas in his application dated 12-5-2007 he has mentioned his qualification has 10th pass and he was possessing higher educational qualification at the time of submitting his application for employment and workman concealed his higher educational qualification at the time of interview. The workman was served show-cause notice to which workman filed his reply in which he mention that on the basis of his higher qualification he will not claim any benefit which is not acceptable by the bank. It is further pleaded by the management that the workman never informed the management that he has passed +2 examination at the time of interview. It is further pleaded by the management that empanelment of workman is in violation of the guide lines issued by the Govt. of India and appointment of the workman is void ab-abnitio. The management prayed that the claim of the workman is devoid of merit and may be dismissed.

4. The workman filed replication to the written statement reiterating the claim made in the claim petition. The workman further sub mitted in the replication that he was appointed on 13-9-2010 and since than he is doing his job with sincerity and honesty and he himself disclosed his qualification on the asking of the bank to furnish the details as per bio-data given by bank to him and he has not given any false information to the management to securing the job and allegation in the show cause notice are wrong and only a attempt to terminate his service.

5. In evidence the workman filed his affidavit as Ex.W1. The workman also relied upon documents Ex.W2 bio-date form dated 18-8-2011 and Ex.W3 letter dated 7-10-2011 written by the workman to the management regarding permission to avail leave for reappearing in B.A.final examination which contain endorsement of the management of the same date. The management filed the affidavit Ex.M2 of one Sh. K.S. Karunakara , Assistant General Manager regional office, Faridabad. The management also filed documents Ex.M1, Ex.M3 to Ex.M7. Both of the witnesses of the parties were cross-examined.

6. I have heard the parties, gone through the record and evidence produced by the parties.

7. The workman filed his affidavit in evidence. The management has cross-examined the workman. (WW1 Jitender Kumar). In his cross-examination WW1 Jiternder Kumar stated that " I am BA pass.I passed the matric in the year 2004. I appeared in 12th exam in 2006 in which I was to appear for compartment examination; therefore, I appeared in September October 2006 in compartment examination of class 12th. I was declared pass mark sheet was sent to me in July 2007. Mark sheet are issued late but the result is declared earlier". The management's witness MW1 K.S. Karunakara Assistant General Manager was cross-examined by the representative of the workman. MW1 K.S. Karunakara in his cross-examination stated that workman was called for interview from the employment exchange to the management bank on the basis of qualification mentioned as matric. Workman filled the form Ex.M1mentioning his qualification as 10th pass. Ex.M4 senior Secondary certificate examination is dated 20.12.2006. On a specific question, this witness answered " I do not know whether the workman qualified the examination as supplementary in July 2007

as there is no documentary evidence". To another question this witness stated that the workman himself filled the form Ex.W2 mentioning his qualification as BA part-II after senior secondary certificate 2006.

7. Representative of the workman submitted that workman never concealed any information regarding his educational qualification. Workman himself submitted the form mentioning his educational qualification for updating .The workman also relied upon the document Ex/W3. This is the application of the workman addressed to the Deputy General Manager Syndicate Bank for seeking permission to avail leave for re-appearing in BA Final Examination. In this application the bank authorities mention the following endorsement:-

> "We may permit Shri Jitender Kumar temporary attender to avail leave on 8th October and 11th October 2011(2days) for appearing in BA exams on referred above subject to availability".

8. This document shows and indicates the bonafide move of the workman. The representative of the management submitted that this reference is pre-mature as no action has been taken by the management so far against the workman.Rebutting to this arguments, the learned counel for the workman cited para3 G of the claim petition quoting that in a similar matter an employee of the respondent bank namely Shri Subhash Chand was charge sheeted for mentioning his educational qualification as 8th pass and subsequently it was found that he had completed his matriculation examination also. He was removed from the service of the bank but his appeal was accepted by the appellate authority and he was reinstated on the same position. In view of the above fact the workman has reasonable apprehension and it cannot be said that the claim of the workman is pre-mature. The management cited two case laws. Ashok Kumar Verma and others Vs. Container Corporation of India and ors. Reported in 2015(2) CLR 193 , Poonam Devi Vs. State of Jharkhand 2013 (3) JLJR 619. With due respect to the case laws of the Hon'ble High Courts, the above cited case law the facts and circumstances were quite different from the facts and circumstances of the present case and are not applicable on the case in hand.

9. The learned counsel for the workman cited case law Charanjit Singh Vs. Punjab Agriculture University and anothers 1994 (3) RSJ page 295. The Hon'ble Punjab and Haryana High Court has held as under:

> "Constitution of India, Arts,226/227-Appointment letter-withdrawal of-Clear from the record that the posts were duly advertised-Petitioner possessed much higher qualifications that those which had been prescribed-Was eligible-Was duly selected- Given an offer of appointment vide letter dated July 14, 1992-There was nothing except the intervention of the Union which may have compelled the respondents to withdraw the orders-Authorities have merely succumbed to pressure and compromised on principles – Withdrew the offer of appointment which had been made to the petitioner after he had been duly selected-Action was arbitrary – Is liable to be set-aside".

10. The representative of the workman also cited case law Smt. Tajinder Kaur and others Vs. State of Punjab and another 1993(3) RSJ page 162. The Hon'ble Punjab and Haryana High Court has held as under:-

> "After hearing the learned counsel for the parties, I find that there is a considerable force in the arguments of the learned counsel for the petitioner. B.Ed qualification is certainly higher that JBT qualification and a person possessing higher qualification is not debarred from being appointed against a post for which lower qualification are required."

11. Considering all the facts and circumstances of the case, the show-cause notice dated 14-6-2012 held to be illegal, unfair and arbitrary and has to be quashed. Consequently the show cause notice No.0656/FRO/PD/TRJ/12 dated 14.06.2012 is hereby quashed.

12. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh.
06.06.2016

S. P. SINGH, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1438.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 840/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41011/38/2003-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1438.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 840/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41011/38/2003-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 22nd February, 2016

Reference: (CGITA) No. 840/2004

Reference: (ITC) No. 13/2004

1. The Sr. Divisional Mechanical Engineer
Western Railway,
Baroda-390004

2. The Divisional Raiwlay Manager,
Western Railway,
Pratapnagar,
Baroda-390004 …First Party

Vs.

Their workmen
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi
Baroda …Second Party

For the First Party : Shri H.B. Shah, Advocate

For the Second Party : C/o. P.R.K.P.

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/38/2003-IR(B-I) dated 08.03.2004 referred the dispute for adjudication to the Industrial Tribunal, Baroda(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the union to promote Shri Ambalal R. Khalasi for the post of Sr. Khalasi is legal, proper and justified? If so, to what relief the concerned workman Shri Ambalal R. is entitled to and from which date?"

2. This reference dates back to 08.03.2004. Second party has been absent since last several dates and also not filed statement of claim despite giving dozens of opportunity.Thus it appears that second party has no inclination or willingness to proceed with the reference. Thus, the Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1439.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 179/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-30012/148/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1439.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 179/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of ONGC Ltd. and their workmen, received by the Central Government on 10.07.2016.

[No. L-30012/148/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 22nd February, 2016

Reference: (CGITA) No. 179/2004

Reference: (ITC) No. 81/1999

1. The Executive Director,
ONGC Ltd.,
WRBC, Makarpura Road,
Baroda-39009 …First Party

Vs.

Their workmen
Through the General Secretary,
ONGC Employees Union,
8, Samrapan Shopping Complex, Highway,
Mehsana-384002 …Second Party

For the First Party : Shri K.V. Gadhia, Advocate

For the Second Party : C/o ONGC Employees Union

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/148/98-IR(B-I) dated 15.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of ONGC Employees Union in asking promotion of Shri Shankar Soma, Khalasi Gd-I upgraded in the pay scale of Rs. 2532/- w.e.f. 01.01-93 with all consequential benefits is justified or not? If yes, what relief the workman is entitled?"

2. This reference dates back to 15.03.1999.Second party filed the statement of claim (Ext.4) on 22.11.1999 and first party filed written statement (Extr.5) on 13.12.2000 since then the second party has been absent and has not been leading evidence despite giving dozen of opportunity.Thus it appears that second party has no inclination or willingness to proceed with the reference. Thus, the Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1440.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 191/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/19/2006-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1440.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 191/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/19/2006-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 1st April, 2016

Reference: (CGITA) No. 191/2006

1. The Dy. Chief Material Manager,
Western Railway, Dahod,
DAHOD (Gujarat) … First Party No.1

2. The Asstt. Material Manager,
Western Railway, Pratap Nagar,
Baroda …First Party No.2

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda …Second Party

For the First Party : None

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/19/2006-IR(B-I) dated 17.11.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of Western Railway represented by Dy. Chief Material Manager, Western Railway, Dahod in not giving promotion to S/Shri Ramubhai K; Baldev R; Maganbhai T; Jaswant D & Madhusudan H, Group D employees for the post of clerk-cum-typist is legal, proper and just? If not, to what relief the concerned workmen are entitled to?"

2. This reference dates back to 17.11.2006. Second party Union representative Shri R.S. Sisodia has note down on the order sheet of the reference that second party does not want to proceed with the reference and the same may be dismissed as not pressed.

Thus, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1441.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 159/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-12012/182/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1441.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 159/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 10.07.2016.

[No. L-12012/182/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 28th February, 2016

Reference: (CGITA) No. 159/2004

The Branch Manager,
State Bank of India,
Kabir Chowk Branch, Kabir Chowk,
Sabarmati,
Ahmedabad (Gujarat) … First Party

v/s

Shri Dagdu KesavSakpal,
Room No. 13, Vanikchand,
Gulabchand, Hatim Khadki, Shanpur
Ahmedabad (Gujarat) … Second Party

For the First Party : Shri P.K. Ohja

For the Second Party : None

AWARD

The Government of India/Ministry of Labour ,New Delhi by reference adjudication Order No. L-12012/182/98-IR(B-I) dated 29.01.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of State Bank of India in terminating the services of Shri Dagdu Kesav Sakpal w.e.f.09.01.1997 is legal and justified? If not, to what relief the said workman is entitled?"

1. The reference dates back to 29.01.1999. Both the parties appeared. Second party submitted the statement of claim Ext. 5 on 10.09.1999 and first party submitted the written statement Ext. 9 on 18.01.2001. Second party workman also filed affidavit/examination-in-chief but did not come forward to get him cross-examination since the year 2006. The conduct of the second party indicates that he has no willingness to prosecute the reference. Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1442.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1450/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/40/2004-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1442.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1450/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/40/2004-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 1st April, 2016

Reference: (CGITA) No. 1450/2004

The Divisional Railway Manager,
Western Railway,
Pratap Nagar,
Baroda …First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda …Second Party

For the First Party : None

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/40/2004-IR(B-I) dated 27.09.2004 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand raised by the union Paschim Railway Karmachari Parishad for the same seniority of Shri Keshav Parmar should be given according to the existing rule of mutual transfer and to give the due promotion to him is legal, proper and justified? If so, what relief the concerned workman Shri Keshav Parmar is entitled to?"

2. This reference dates back to 27.09.2004. Second party Union representative Shri R.S. Sisodia has note down on the order sheet of the reference that second party does not want to proceed with the reference and the same may be dismissed as not pressed.

Thus, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1443.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 635/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/87/94-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1443.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 635/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/87/94-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 28th April, 2016

Reference: (CGITA) No. 635/2004

The Divisional Railway Manager,
Paschim Railway,

Kothi Compound,
Rajkot (Gujarat) … First Party

v/s

Shri Rajendra Kumar Goswami,
C/o Mahendra R. Karatia,
Near Debar Chowk,
HariKilla, Rajkot (Gujarat) …Second Party

For the First Party : Shri Janak R. Pandya

For the Second Party : Shri M.R. Karathia

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/87/94-IR(B-I) dated 19.07.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the Divisional Personal Officer, Western Railway, Rajkot in discontinuing services of Shri Rajendra Goswami, cook in the Railway Canteen w.e.f. 12.02.1990 is valid, justified and legal? If not, to what benefits the workman / employee is entitled?"

1. The reference dates back to 19.07.1995. Second party submitted the statement of claim Ext. 2 on 26.08.1994 and first party submitted the written statement Ext. 7 on 19.02.1997. Since then second party has not lead evidence since 13.10.2003. The conduct of the second party indicates that he has no willingness to prosecute the reference. Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1444.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 180/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-30012/149/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1444.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 180/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of ONGC Ltd. and their workmen, received by the Central Government on 10.07.2016.

[No. L-30012/149/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 22nd February, 2016

Reference: (CGITA) No. 180/2004

Reference: (ITC) No. 82/1999

1. The Executive Director,
ONGC Ltd.,
WRBC, Makarpura Road,
Baroda-390009 …First Party

Vs.

Their workmen
Through the General Secretary,
ONGC Employees Union,
8, Samrapan Shopping Complex, Highway,
Mehsana-384002 …Second Party

For the First Party : Shri K.V. Gadhia, Advocate

For the Second Party : C/o. ONGC Employees Union

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/149/98-IR(B-I) dated 15.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of ONGC Employees Union in asking promotion of Shri A.D. Keskar, Khalasi Gd-I upgraded in the pay scale of Rs. 2532/- w.e.f. 01.01-93 with all consequential benefits is justified or not? If yes, what relief the workman is entitled?"

2. This reference dates back to 15.03.1999. Second party field statement of claim (Ext.4) on 12.11.1999 and first party filed written statement (Ext. 5 13.12.2000 since then the second party has been absent and has not been leading evidence despite giving dozen of opportunity.Thus it appears that second party has no inclination or willingness to proceed with the reference. Thus, the Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1445.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 913/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/135/2001-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1445.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 913/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/135/2001-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 7th April, 2016

Reference: (CGITA) No. 913/2004

The Divisional Railway Manager,
Western Railway,
Pratap Nagar,
Baroda-390004 (Gujarat) …First Party

Vs.

Shri Jitra Galji,
C/o Shri Mukesh Dhanik, Guard,
C/o Station Superintendent,
Western Railway,
Anand-388001 …Second Party

For the First Party : None

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/135/2001-IR(B-I) dated 25.01.2012 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the Divisional Railway Manager, Western Railway, Baroda Division in removing Shri Jitra Galji, Gangman from service w.e.f. 02.11.1991, proportional to his fault is justified? If not, what relief the concerned applicant is entitled?"

2. The case is pending since long. Both the parties have not been responding since last several dates though Second Party files the statement of claim (exhibit 3) on 17.02.2002. On last date i.e.; 11.12.2015 as First Party did not prefer to file Written Statement therefore order for exparte hearing was passed. Again today on 07.04.2016, neither of the parties have been responding.

Thus, it appears that both the parties are not willing to prosecute/proceed with the reference. Thus the reference is dismissed in default of the parties.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1446.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 88/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41011/60/2011-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1446.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 88/2011) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure, in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41011/60/2011-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 1st April, 2016

Reference: (CGITA) No. 88/2011

1. The Divisional Railway Manager,
Western Railway,
Pratap Nagar,
Baroda … First Party No.1

2. The General Manager,
Western Railway,
Churchgate,
Mumbai …First Party No.2

Vs.

Their Workman,
Through the Vice President,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda …Second Party

For the First Party : None

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/60/2011-IR(B-I) dated 23.11.2011 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the Paschim Railway Karmachari Parishad for compassionate appointment to Shri Bharat Kumar, S/o Late Shri Ramesh Kumar V. and family pension to Smt. Kamlaben widow of deceased employee is legal and justified? To what relief the workman is entitled?"

2. This reference dates back to 23.11.2011. Second party Union representative Shri R.S. Sisodia has note down on the order sheet of the reference that second party does not want to proceed with the reference and the same may be dismissed as not pressed.

Thus, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1447.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 232/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/199/99-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1447.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 232/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/199/99-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 28th April, 2016

Reference: (CGITA) No. 232/2004

The Divisional Railway Manager,
Western Railway,
Divisional Office,
Kothi Compound,
Rajkot-360001 … First Party

v/s

The President,
Paschim Railway Karmachari Parishad,
Sarvottam Nagar, Nr. New Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)-380019 …Second Party

For the First Party : Shri H.B. Shah

For the Second Party : None

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/199/99-IR(B-I) dated 15.11.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Paschim Railway Karmachari Parishad, Ahmedabad against the management of Divisional Railway Manager, Western Railway, Divisional Office, Rajkot that Shri Phool Singh, Sr. Typist be placed senior to Shri G.A. Gohil (SC) and Shri S.R. Chaure (ST) and should be promoted as Head Typist with all consequential benefits is just, valid and legal? If so to what benefits the workman is entitled for and what directions are necessary in the matter?"

1. The reference dates back to 15.11.1999. The second party submitted the statement of claim Ext. 3 on 12.07.2000 and the first party submitted the written statement on 10.04.2006. Since then the second party has been absent and has not lead the evidence. Thus, it appea rs that second party has no intent to prosecute the case. Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1448.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 151/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/179/2005-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1448.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 151/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/179/2005-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 1st April, 2016

Reference: (CGITA) No. 151/2006

1. The Divisional Railway Manager,
Western Railway,
Pratap Nagar,
Baroda-390007 …First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Vadodara-390001 …Second Party

For the First Party : Shri H.B. Shah, Advocate

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/179/2005-IR(B-I) dated 19.07.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the union that Shri H. J. Gupta presently working as ELF Gr.III should be given seniority and pay fixation w.e.f. 1.9.1998 at par with his juniors who were promoted and given the seniority w.e.f. 1.9.1998 by the management of Western Railway, Vadodara is justified? If so, what relief the concerned workman is entitled to?"

2. This reference dates back to 19.07.2006. Second party Union representative Shri R.S. Sisodia has note down on the order sheet of the reference that second party does not want to proceed with the reference and the same may be dismissed as not pressed.

Thus, the reference is dismissed as not pressed.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1449.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 580/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/100/2003-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1449.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 580/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/100/2003-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 24th February, 2016

Reference: (CGITA) No. 580/2004

Reference: (ITC) No. 54/2003

1. The Divisional Railway Manager,
Western Railway,
Divisional Officer
Kothi Compound,
Rajkot-360001 …First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
E/209, Sarvottam Nagar,
Nr. New Railway Colony,
Sabarmati,
Ahmedabad (Gujarat)-380019 …Second Party

For the First Party : Shri Janak R. Pandya, Advocate

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/100/2003-IR(B-I) dated 19.09.2003 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of Divisional Railway Manager, Western Railway, Rajkot giving 15% higher capacity allowance for working on higher ad hoc post from 09.02.1992, 13.05.1996 instead of giving higher ad hoc pay for working on that post was proper and legal? If not, then what relief?

2. "This reference dates back to 19.09.2003. Second party filed statement of claim (Ex.4) on 04.06.2004 but the first party did not submit the written statement despite giving number of opportunities. First party filed the Vakalatnama of his Advocate Janaka R. Pandya (Ext.6) on 12.01.2010 but first party did not prefer to submit written statement. In the said circumstances, second party moved an application (Ext.8,9 and 10) on 26.12.2011 and 27.01.2012 respectively stating that the first party has failed to submit written statement for more than 7 years. Therefore, case be proceeded after closing the opportunity of filing written statement. Thereafter, second party submitted the examination-in chief/affidavit (Ext.11) of second party workman Shri Babulal supporting his version in the statement of claim.None came forward on behalf of the first party to cross examine him.Thus, in the said circumstances, the affidavit (Ext.11) is uncontroverted. Therefore, reference deserves to be allowed.

3. Thus, in the said circumstances, I give the award that the impugned action of the first party was not proper and legal. First party be directed to pay 'UCHH STHANAPANN PAY' to the second party for the period 09.02.1990 to 13.05.1996.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1450.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 637/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41011/08/93-आईआर (बी- I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 637/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41011/08/93-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 28th April, 2016

Reference: (CGITA) No. 637/2004

The Divisional Railway Manager,
Paschim Railway Workshop,
Western Railway,
Ahmedabad (Gujarat) … First Party

v/s

The Zonal Secretary,
Paschim Railway Karmachari Parishad,
18, Saraswati Nagar,
Zona A
Ahmedabad (Gujarat) … Second Party

For the First Party : Shri H.B. Shah

For the Second Party : Shri B.K. Sharma

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/08/93-IR(B-I) dated 28.08.1995 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the claim of PRKP for seniority to Shri Batukbhai J. and 12 other workmen in Diesel Shed, NPON (wagon) shop as initiated in the demand notes at Annex. A. is legal & justified? If so, to what relief the workman is entitled?"

1. The reference dates back to 28.08.1995. Second party submitted the statement of claim Ext. 2 on 30.07.2002 but first party did not prefer to submit the written statement despite filing the Vakalatpatra of his advocate. Therefore, case was fixed for evidence of the second party but did not lead his evidence. The conduct of the second party indicates that he has no willingness to prosecute the reference. Thus, the tribunal has no option but to dismiss the case in default of the second party.

2. Thus, the case is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 1435/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41011/3/2004-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1435/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41011/3/2004-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 1st April, 2016

Reference: (CGITA) No. 1435/2004

1. The Divisional Railway Manager,
Western Railway,
Baroda-390001 …First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Shastri Pole, Kothi,
Baroda …Second Party

For the First Party : Shri Jatin Vakil, Advocate

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41011/3/2004-IR(B-I) dated 20.08.2004 referred the dispute for adjudication to the Industrial Tribunal, Baroda(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the union for fixation of revised to S/Shri D.S. Sharma, Jagdish I. Panchal, Iqbal Hussain, Mustuffa, Gambhir, A.K. Joshi, Niranjan, Fatehsingh R. Baria, and Poonam M. Solanki w.e.f. 1.1.1986 and to pay the dues to them as per the existing Rules is proper, legal and justified? If so, to what relief the concerned workmen are entitled to from which date?"

2. This reference dates back to 20.08.2004. Second party has been absent since last several dates and has also not filed statement of claim despite giving dozens of opportunity.Thus it appears that second party has no inclination or willingness to proceed with the reference. Thus, the Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 176/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-30012/152/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 176/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of ONGC Ltd. and their workmen, received by the Central Government on 10.07.2016.

[No. L-30012/152/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 17th February, 2016

Reference: (CGITA) No. 176/2004

Reference: (ITC) No. 77/1999

1. The Executive Director,
ONGC Ltd.,
Western Region,
Makarpura,
Baroda-390009 …First Party

Vs.

Their workmen
Through the General Secretary,
ONGC Employees' Union,
8, Samrapan Shopping Complex, Highway,
Mehsana-384002 …Second Party

For the First Party : Shri K.V. Gadhia, Advocate

For the Second Party : C/o. ONGC Employees Union

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/152/98-IR (B-I) dated 15.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of ONGC Employees Union in asking promotion of Shri D.A. Solanki, Khalasi Grade-I upgraded in the pay scale of Rs. 2532/- w.e.f. 01.01.93 with all consequential benefits is justified or not? If yes, what relief the workman is entitled?"

2. This reference dates back to 15.03.1999. Second party submitted statement of claim (Ext.4) and first party consequently filed written statement(Ext.5) on 13.12.2001. Since then second party was given opportunity of leading evidence. First party advocate is always present but second party neither appears not come forward to lead evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 181/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-30012/150/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 181/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of ONGC Ltd. and their workmen, received by the Central Government on 10.07.2016.

[No. L-30012/150/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 17th February, 2016

Reference: (CGITA) No. 181/2004

Reference: (ITC) No. 83/1999

1. The Executive Director,
ONGC Ltd.,
Western Region,
Makarpura,
Baroda-390009 …First Party

Vs.

Their workmen
Through the General Secretary,
ONGC Employees' Union,
8, Samrapan Shopping Complex, Highway,
Mehsana-384002 …Second Party

For the First Party : Shri K.V. Gadhia, Advocate

For the Second Party : C/o. ONGC Employees' Union

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/150/98-IR (B-I) dated 15.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of ONGC Employees Union in asking promotion of S/Shri H.B. Vankar & B.D. Boila, Khalsai Gd-I upgraded in the pay scale of Rs. 2532/- w.e.f. 01.01.93 with all consequential benefits is justified or not? If yes, what relief the workman is entitled?"

2. This reference dates back to 15.03.1999. Second party submitted statement of claim (ext.4) on 09.12.1999 and first party consequently filed written statement (Ext.5) on 13.12.2001.Since then second party was given opportunity of leading evidence. First party advocate is always present but second party neither appears not come forward to lead evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ओएनजीसी लि. के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 178/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-30012/147/98-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 178/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of ONGC Ltd. and their workmen, received by the Central Government on 10.07.2016.

[No. L-30012/147/98-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 17th February, 2016

Reference: (CGITA) No. 178/2004

Reference: (ITC) No. 80/1999

1. The Executive Director,
ONGC Ltd.,
Western Region,
Makarpura,
Baroda-390009 …First Party

Vs.

Their workmen
Through the General Secretary,
ONGC Employees' Union,
8, Samrapan Shopping Complex, Highway,
Mehsana-384002 …Second Party

For the First Party : Shri K.V. Gadhia, Advocate

For the Second Party : C/o. ONGC Employees' Union

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-30012/147/98-IR (B-I) dated 15.03.1999 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad(Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of ONGC Employees Union in asking promotion of Shri Jeenaji Pradhanji, Khalasi, Grade-I upgraded in the pay scale of Rs. 2532/- w.e.f. 01.01.93 with all consequential benefits is justified or not? If yes, what relief the workman is entitled?"

2. This reference dates back to 15.03.1999. Second party submitted statement of claim (Ext.4) on 22.11.1999 and first partysubmitted the written statement (Ext.5) on 13.12.2000. Since then second party was given opportunity of leading evidence. First party advocate is always present but second party neither appears not come forward to lead evidence. Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 617/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/135/93-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 617/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/135/93-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 12th February, 2016

Reference: (CGITA) No. 617/2004

Reference: (ITC) No. 26/1995

1. The Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot …First Party

Vs.

Their Workman,
Through the Divisional Secretary,
Paschim Railway Karmachari Parishad,
Matru Chhaya Junction,
Rajkot …Second Party

For the First Party : Shri Janak R. Pandya, Advocate

For the Second Party : C/o. P.R.K.P

AWARD

The Government of India/Ministry of Labour,New Delhi by reference adjudication Order No. L-41012/135/93-IR dated 03.05.1995 referred the dispute for adjudication to the Industrial Tribunal, Rajkot (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the demand of the Paschim Rly. Karmachari Parishad Rajkot that the seniority of Shri Ashok B. Pandit, cleaner under chief wagon Suptd. (C&W), Rajkot should be determined from the date the employee attained temporary status i.e. w.e.f. 2.11.79 in consonance with memorandum No. EM.891/5/1 dt 23.9.83 of the DRM W.Rly., Rajkot and not from the date of empanelling, is justified and legal? If so, to what benefits the workman is entitled for and what directions are necessary in the matter?"

2. This reference dates back to 03.05.1995. Both the parties were served and were represented by their advocates. Second party submitted his statement of claim (Ext.5) and first party submitted his written statement (Ext.6) on 17.03.1998. Since then second party has not led his evidence despite giving dozens of opportunities.Thus, it appears that second party is not interested in the proceedings of the reference. Therefore, Tribunal has no option but to dismiss the reference in default of the second party.

The reference is dismissed in default of the second party.

P. K. CHATURVEDI, Presiding Officer

नई दिल्ली, 12 जुलाई, 2016

का.आ. 1456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पश्चिम रेलवे के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, अहमदाबाद के पंचाट (संदर्भ सं. 129/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 10.07.2016 को प्राप्त हुआ था।

[सं. एल-41012/258/2003-आईआर (बी-I)]

रणबीर सिंह, अनुभाग अधिकारी

New Delhi, the 12th July, 2016

S.O. 1456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 129/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad as shown in the Annexure in the Industrial Dispute between the management of Western Railway and their workmen, received by the Central Government on 10.07.2016.

[No. L-41012/258/2003-IR (B-I)]

RANBIR SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, AHMEDABAD

Present :

Pramod Kumar Chaturvedi,
Presiding Officer, CGIT-cum-Labour Court,
Ahmedabad,

Dated 22nd February, 2016

Reference: (CGITA) No. 129/2006

1. The General Manager,
Western Railway,
Churchgate, Mumbai

2. The Chief Project Manager,
Western Railway, BG Station Building,
2nd Floor, PO Railwaypura,
Ahmedabad-02

3. The Divisional Railway Manager,
Western Railway,
Ahmedabad Division,
Ahmedabad

4. The Chief Permanent Way Inspector (C),
Western Railway,
Viramgam Railway Station,
Viramgam,
Dist.-Ahmedabad …First Party

Vs.

Their workman
Through the Organising Secretary,
Association of Railway and Post Employees,
15, Shashi Flats, Near Swaminarayan Chowk,
Jawaharnagar Vasna Road,
Ahmedabad …Second Party

For the First Party : Shri H.B. Shah, Advocate

For the Second Party : Shri R.C. Pathak, Advocate
(C/o. Association of Railway and Post Employees)

AWARD

The Government of India/Ministry of Labour, New Delhi by reference adjudication Order No. L-41012/258/2003-IR(B-I) dated 23.05.2006 referred the dispute for adjudication to the Industrial Tribunal, Ahmedabad (Gujarat) in respect of the matter specified in the Schedule:

SCHEDULE

"Whether the action of the management of western Railway, in terminating the services of Shri RamjiMansing, Ex-Casual labour w.e.f. 21.7.84 is justified? If not, what relief the applicant is entitled to and from which date?"

2. The second party workman RamjibhaiMansing in his statement of claim (Ext.11) has alleged that the first party western Railway, Churchgate, Mumbai through its General Manager, Divisional Manager, Ahmedabad and Chief Permanent way Inspector is an "industry" within the meaning of section 2(j) of Industrial Disputes Act, herein after referred to as Act, and second party workman himself was working under the control of the first party management, herein after referred to as "Management". The second party is a workman within the meaning of the Act. He was engaged by the management as EDDA since 1969 and had been working continuously till the date of termination on 21.07.1984. His services were terminated without following the due procedure of law. Neither notice pay including retrench pay was paid to him violating the procedure provided under section 25(F) of the Act. However, management, at the time of the termination of his service, retained number of juniors in the service violating the provisions of section 25(G) of the Act.No seniority list was prepared or published by the management on the notice board violating the provisions of rule 77 of the Industrial Dispute (Central) Rules, herein after referred to as Rule. At the time of termination of his service, neither he was charge sheeted alleging any misconduct nor he was subjected to any departmental inquiry. He was not heard at the time of termination of service which violates the principles of natural justice. After his termination of service fresh recruitment on the said post was made but he was not given any opportunity to be re-employed which also violates the provisions of section 25(H & N) of the Act as approval for recruitment was not obtained.

3. He further alleged he had been doing the permanent nature of work under the Management which is increasing day by day. He was not given any benefits available to the regular workman. He had been working continuously and satisfactorily from initial date of appointment till the date of his termination of service. Thus, he has a prima facie case to be reappointed. He has further alleged that second party be also asked to submit the record related to his service.

4. The first party in his written statement (Ext.19) has denied the allegations levelled in the statement of claim (Ext.11) and alleged that dispute referred for adjudication in the reference is not industrial dispute within the meaning of the Act. Same is barred by delay, latches and acquaintances. Dispute was raised in 2002 and referred on 23.05.2006 is time barred. The first party is under obligation to retain records of casual labour for a period of 3 years. The right to claim relief of reinstatement with full back wages is equitable relief same does not stand in favour of a person to keep silence for the years together. A casual labour employed on temporary basis on daily rated basis has no right to regularisation on permanent post. It is wrong to say that second party was appointed as casual worker in the year 1959 by Public Way Inspector, Viramgam. Second party has a burden to prove his engagement as casual labour. Xerox copy of the project casual labour card not attested and signed by engaging authority is not admissible. Said letters are forged and dubious. Thus, the second party workman is not entitled for any relief.

5. After perusal of pleadings, following issues are to be decided by this Tribunal:

(a.) Whether a second party was a workman with the first party?

(b.) Whether second party did work for 240 days during preceding year to the termination of service of second party?

(c.) Whether the impugned action as referred in this case is illegal?

6. Second party workman RamjibhaiMansing examined himself as witness and stated on oath that he worked as casual labour in the first party management since the year 1969. He was appointed with due process of recruitment through oral interview. He was appointed for general work at any project of the first party for a long period but he was not given any appointment letter. He had been working till the date of termination in the first parry management. He was terminated on 21.07.1984. He had been performing his work and duties continuously and satisfactorily. He was working more than 240 days in the last year of termination as well as in every calendar year. He also stated that at the time of termination neither any notice and notice pay nor any compensation/wages was paid to him. No seniority list

was prepared by the management on the notice board. More than 100 workers were working in the first party management. At the time of termination, permission was not taken from Labour Commissioner. He further stated that he worked as casual labour or daily wages employee and there were no difference of work between thethem and the permanent employees. But salary paid to him was less than permanent employees and the benefits like leaves, uniform, provident fund etc. were not given to him and on demand for benefits, the first party terminated him. He further stated thatin the first party organisation,the workers who were junior to him were permitted to continue. The employees junior to him were (1.) Bhikha Dahyabhai (2.) Yakub Sultan (3.) RasulKasim (4.) NanjiMagan. He further stated that he continue to work with the first party organisation continuously and the work in the first party organisation increased day by day, but after his termination of service, fresh recruitment on the said post was made but he was not given opportunity to be re-employed.He signed under the statement of claim and the details in it, is true. He further stated that during his service, the attendance register was maintained and the details of salary were also maintained in the muster roll and he used to put his signature on the vouchersof the first party organisation. All these documents like muster roll, and salary vouchers were in the custody of office of first party management. Service card was provided by the first party management was true and the letter dated 13.01.1994 by the railway was true in which there were sign and seal of the railway official. After the termination, he tried to work elsewhere but failed. He reiterated his aforesaid statement while being examined by the first party advocate.

7. First party examined Ahmedhusen Yakub Bagvala in support of his written statement. He stated on oath that he has been working as Chief Project Manager, Western Railway, Ahmedabad. He has been aware with all the fact of the case. All the documents related to service of the second party regarding attendance and wages of the second party being 3 years old have been destroyed as per the rules framed by the organisation, therefore, adverse inference cannot be drawn in the non-production of the said documents. The project in which second party was working was seasonal, intermittent and extended for a short period therefore, payments were made from the contingencies. Matter has been adjudicated with a long delay, latches and acquaintances. The termination of service of second party on 21.07.1984, 18 years ago, therefore, now he cannot raised the dispute for such a delay. He has further stated that matter was taken up in the office of Regional Labour Commissioner (Central) where his name was mentioned as RamjiMansinghbhai and in some other papers , his name was mentioned as GorajChahuRsai. Thus, his identity is disputed. He further stated that provision of section 25(F) is not attracted because prior to the year 1987 no casual labour seniority list was maintained. Railway board also banned engagement of casual labours. Tribunal cannot fasten a burden to engage the second party as employee after a two decade. He was not doing a permanent work. Casual labours are not and never appointed as regular employee. It is further said that the second party never oppose any authority till the year 2002 while he was alleged to be terminated on 21.07.1984.During this period, he never made representation to any authority regarding his termination. He further stated that prior to the year 1987, no seniority list of casual labour were maintained and it is being done after Supreme Court direction in the later years. Therefore, the provisions of section 25 (F, G,& H) cannot said to be attracted. In his cross examination, he has not stated anything contrary to his own version which may support the claim of the second party.

8. **ISSUE NO. I, II and III** – all the issue are taken up together as being inter related. I perused the evidence of the both the parties it is true that second party has alleged his termination from service from 21.07.1984 but he has not denied that he took up the matter for reconciliation before RLC (Central) in the year 2002. He has failed to give any explanation as to why he kept himself inactive or silent for 18 years. He has also failed to prove that he was a workman and worked 240 days in the first party organisation in the preceding year to his termination of service or earlier years which he could have proved this fact by examining of his co-employees or by filing the documents/vouchers which would have been given to him during service for example some memo, notice or any other type of letter. Matter being so old, Tribunal cannot blame first party for non-production of documents which the second party tried to ask the first party to produce. Thus, the second party has failed to prove his case by any stretch of imagination. Reference is also definitely barred by delay and latches. Thus,reference has no force and fit to be dismissed.

This is the award of the Tribunal.

P. K. CHATURVEDI, Presiding Officer

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